been imposed. They had since been withdrawn. However, problems still existed, particularly in view of Lithuania's importance to the economy of the Union. On the eve of his departure from the Soviet Union, he had met with representatives of Lithuania and had discussed the process of determining future relations. No one challenged Lithuania's right to secede if that was the wish of the people.

5. Recent legislation had created the necessary conditions for the preparation and conclusion of a new treaty of union. The treaty should be based on the concept of a union of sovereign States, a clear definition of the status of the parties, a delimitation of the powers of the Soviet Union and the Union Republics, a wide variety of links between them, voluntary participation and mutual advantage.

6. With regard to the question concerning the situation regarding international treaties if a Republic were to leave the Union, he said at the present time such treaties could be implemented only by the national Government.

7. Referring to the situation in the Republic of Georgia, he recalled that in the 1940s people along the Turkish frontier had been deported to the Central Asian Republics. In 1989, ethnic conflicts had resulted in human casualties and hundreds of thousands of refugees. With a view to ensuring justice, the Government of the Union had recently called on the Government of Georgia to find ways of accepting those persons in its territory. He stressed that the Union was making great efforts to improve their situation.

8. With regard to the question of Nagorno-Karabakh and Armenia, the decision taken by the Armenian Parliament had not been constitutional. The only way to solve the problem was through a demonstration of good will on the part of the two peoples and an effort to reach a compromise.

9. With regard to the question of the relationship developing between the Holy See and the Soviet Union, he noted that there had been a recent exchange of ambassadors.

10. As to the question of representation of the various ethnic groups in the organs of power in the Soviet Union, the Supreme Soviet had a bicameral structure and all ethnic nationalities were represented in the Council of Nationalities. Some electors might, however, choose a person of a different ethnic origin to represent them. In any event, there was a broad representation of all nationalities in the country.

11. Mr. ILIUKHIN (Union of Soviet Socialist Republics) said that he wished to reply to the questions put by Mr. Foighel, Mr. Wolfrum and Mr. Garvalov relating to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. It had been asked whether a Soviet citizen's right to freedom of speech might not be used to advocate racial hatred. In the Soviet Union, every individual was free to express his or her beliefs and opinions and to disseminate them by all means, including the press and the mass media. However, the Soviet Union also considered that the right to freedom of speech must be tempered by a respect for the rights and freedoms

of others, and Soviet legislation was based on that principle. The Soviet Constitution provided that no party, organization or movement might act in a way leading to discrimination of a racial or religious nature.

12. Under the new Act on the press and the mass media, passed on 1 August 1990, no one was permitted to use the media to advocate national, racial or religious exclusivity or intolerance. The Act laid down the rights and obligations of journalists to protect the legitimate interests of different nationalities. There were certainly areas where reform was needed, particularly in the media of the Union Republics, and legal and other measures were under preparation to implement the new Act.

13. Members of the Committee had asked about the movement known as Pamyat. It had started as a patriotic organization which sought to revive old Russian traditions, but gradually it had begun to accuse one particular race of being responsible for all the tragedies and mistakes of the past. Pamyat was not an official organization, but it enjoyed support in various parts of the country, although some branches were less radical than others.

14. The movement was sometimes used as a cover by other groups, which distributed anti-Semitic material, purporting to come from Pamyat, in cities such as Moscow and Leningrad. Mr. Wolfrum had mentioned a case that had occurred in April 1990 in which the student magazine of a power engineering institute in Moscow had published what it alleged to be the manifesto of Pamyat, which contained anti-Semitic statements. The Moscow procurator's office had instituted a criminal investigation, which had established that the manifesto had not been written by Pamyat at all. However, it had not yet determined who was responsible for it.

15. Other criminal cases had been brought in respect of anti-Semitic propaganda, one concerning an incident at the Moscow writers' club, the Dom Literatorov, which had been reported both in the Soviet Union and abroad. A criminal case had been brought against the person thought to be responsible, but no conclusion had yet been reached.

16. In 1989, there had been 69 cases of alleged dissemination of racial hatred. Dozens of people had already been convicted, mainly in the Republic of Georgia and in Central Asia. The Soviet press had reported over 7,000 crimes resulting from inter-ethnic conflict in the previous two and a half years. More than 1,400 people had been prosecuted for disseminating racial hatred in that period, but he believed that criminal prosecution should be a last resort in the struggle to eliminate racial discrimination. The compensation which the courts could award was not enough to satisfy people whose relatives had been killed in inter-ethnic conflicts, for example. It was essential to use political, economic and other measures to prevent the occurrence of racial discrimination. Because of the serious consequences of inter-ethnic conflict, the Government had increased the penalties for such crimes in 1989, especially for officials who practised or condoned racial discrimination in the course of their work.

17. The Committee had asked about political crimes or, as they were often described in the Soviet Union, crimes connected with anti-Soviet propaganda. In fact, such activities were no longer a crime. There were now no inmates of

Soviet prisons who had been convicted solely for engaging in anti-Soviet propaganda; there had been some publicity over the case of 28 people allegedly imprisoned for such offences but, in fact, they had all been convicted of other offences as well.

18. There had recently been some debate in the Soviet Union about the prosecution of young people who tried to avoid military service. There were proposals for new legislation providing for some kind of alternative service for young people who did not wish to serve in the armed forces for any reason.

19. There had been a question about offences against the law on the separation of church and State. The criminal code still provided for such offences, but they might soon be abolished, although that was a matter for the Soviet legislators.

20. Mr. IGNATOV (Union of Soviet Socialist Republics) said that the increasing democratization of Soviet society had led the Government to review the way in which its obligations under international instruments were being implemented in practice. In general, international instruments were not directly applicable in Soviet law, although that position might soon change. Many of the new draft laws on the rights of citizens were designed to regulate the relations between the different ethnic groups of the Soviet Union, protect human rights and prevent discrimination. All those draft laws took into account the international instruments to which the Soviet Union was a party.

21. One of the most important factors in the Soviet Union's implementation of its international obligations was the new system of constitutional supervision described in the eleventh periodic report (CERD/C/147/Add.1). The new Committee for Constitutional Supervision had been set up to ensure that the actions of executive organs, the laws passed by the central Government and the Union Republics, the draft laws before the legislative bodies and the Soviet Union's obligations under international instruments were in conformity with the Constitution. If the Committee for Constitutional Supervision concluded that a certain law was detrimental to the rights or freedoms of citizens, that law lost its force immediately. The Committee for Constitutional Supervision had taken the Convention into account in considering the new draft laws on freedom of public association and registration of Soviet citizens.

22. In February 1989, the Soviet Union had accepted the compulsory jurisdiction of the International Court of Justice, and preparations for ratification of the Optional Protocol to the International Covenant on Civil and Political Rights were almost complete. Recent legislation in areas such as education, health and the family stated that Soviet citizens would also enjoy any other rights laid down in international instruments to which the Soviet Union was a party, even if they were not specifically laid down in Soviet legislation. A similar provision was likely to be included in other new legislation.

23. The Soviet Government had taken a number of measures to implement its obligations under article 5 of the Convention. In 1987, it had greatly relaxed the rule governing temporary visits abroad by Soviet citizens. People could now visit more distant relatives, including relatives who were former

Soviet citizens, in any country, including Israel. A time-limit had been set for the consideration of applications, and there were fewer grounds on which an application could be refused. There was no longer any need for a declaration by relatives remaining in the Soviet Union who might have some material claim on the intending traveller. The majority of Soviet citizens could now enjoy their right to travel abroad or to invite relatives from abroad to visit them, and 4 million people had taken advantage of that right in 1989.

24. The number of people who had emigrated from the Soviet Union in 1989 was 235,000. Only 0.3 per cent of those applying had been refused permission to emigrate. At the citizen's request, the reasons for the refusal would be furnished in writing, and the citizen had the right of appeal to the Presidium of the Supreme Soviet.

25. The draft laws which he had mentioned earlier included one on the procedure for entering and leaving the country. The first draft of the law had been adopted by the Supreme Soviet in November 1989, and it was hoped that the final draft would be passed in the autumn of 1990. For the first time in Soviet legal history, the draft law proclaimed the right of every citizen to enter the country and to leave it, and laid down the appropriate legal and judicial guarantees. If citizens were not satisfied with an official decision on a procedural or legal point, they could appeal to the courts. Every citizen had the right to a passport for foreign travel, valid for five years and extendable for a further five years. Citizens no longer had to furnish reasons for wanting to travel or emigrate, and an invitation from a relative abroad was no longer necessary. Citizens could still be refused permission to travel abroad if they were considered to be party to State secrets, but a time-limit must be placed on such restrictions, and the citizen must be told what the time-limit was.

26. The Committee had asked about citizens' rights to move freely within the country (art. 5 (d) (i) of the Convention). The Government intended to abolish the residence restrictions placed on Soviet citizens who had criminal convictions. The present restrictions applied not only to the border zone and other special areas, but also to 60 cities and towns throughout the Soviet Union, with the result that almost 4 per cent of people released from prison every year were unable to rejoin their families and take up their old jobs. A draft decree abolishing those restrictions had been introduced, and he hoped that it would be passed before the Soviet Union submitted its next periodic report.

27. There was a good deal of secrecy surrounding the regulations on passports and internal residence permits, which made it difficult for people to appeal to the courts if their applications were refused. The laws governing those matters were very numerous and extremely complex. The Government hoped to pass new legislation covering the entire field of passports and residence permits which would be in accordance with the country's international human rights obligations, while enabling it to avoid the economic, social and housing problems associated with completely unrestricted population movements.

28. The Committee had asked whether a Soviet citizen could change his or her nationality. At present, a citizen's nationality was derived from his or her

parents, but there were proposals to change the practice in order to prevent anomalous situations in which, for instance, the child of Ukrainian parents was considered to be of Ukrainian nationality, even though he might have lived in central Asia all his life, speak Uzbek as his native language and belong to the Muslim faith.

29. At a previous meeting, he had submitted to the Committee some statistical information about religious believers in the Soviet Union. In fact, the table he had submitted showed the number of registered religious communities, rather than the number of believers. The two main religions in the Soviet Union were the Orthodox Church and Islam, both of which were represented in almost all the Republics. Although there were no official figures for the number of believers in the Soviet Union, it was estimated to be between 70 million and 90 million, of whom a large proportion were Muslims.

30. Mr. ILIUKHIN (Union of Soviet Socialist Republics) said that the Committee had asked about the likelihood of political parties being formed on an ethnic basis. Such a question was impossible to answer, although there were guarantees in the Constitution of the Soviet Union and the new legislation on social organizations that no group would be allowed to exist if it fostered racial or ethnic disharmony.

31. There had also been questions about confinement in psychiatric hospitals. Recent legislation had increased the guarantees available to citizens and made it less likely that people who were not genuinely ill would be confined in a psychiatric hospital. In the past, the Ministry of Internal Affairs had had its own psychiatric hospitals, but they had now been transferred to the Ministry of Health. Many measures had been taken to prevent abuses by the authorities or hospitals themselves, and an official who sent someone to a psychiatric hospital without justification was liable to criminal prosecution.

32. There had also been a question about the independence of the judiciary. In the previous 18 months, many measures had been adopted to increase the independence of the courts. The Government intended to introduce new procedures for the training of judges and measures to prevent undue interference in the work of the legal profession.

33. The CHAIRMAN, speaking in a personal capacity, said he hoped that the next periodic report would include the texts of, inter alia, the new law on freedom of conscience and public association, currently in draft form, and of the law on the economic relations of the Soviet Union and the Union Republics of 10 April 1990. There was no doubt that developments in the Soviet Union were of the utmost importance to the country itself and of far-reaching significance to the rest of the world, particularly to the countries of the third world. He wished to ask the Soviet representatives whether it would be premature to contemplate the establishment of consular offices and trade representation in the Union Republics pending the adoption of the new treaties between the Soviet Union and those Republics.

34. Mr. TARAZEVITCH (Union of Soviet Socialist Republics) said that, under the Constitution, a Union Republic already had the right to representation in foreign countries, a right which was of course reciprocal. The conclusion of

economic agreements with other Union Republics was the responsibility of various government departments at the Union level, but current legislation entitled State and other enterprises, organizations and cooperatives to enter into economic relations with foreign partners. Much remained to be done, however, to enhance the effectiveness of such cooperation in the interests of ensuring the independence of the enterprises and the autonomy of the Union Republics.

35. The CHAIRMAN thanked the Soviet representatives for their detailed and informative replies. The Committee had thus concluded its consideration of the tenth and eleventh periodic reports (CERD/C/172/Add.6 and CERD/C/197/Add.1) of the Soviet Union.

Mr. Tarazevitch, Mr. Iliukhin and Mr. Ignatov (Union of Soviet Socialist Republics) withdrew.

The meeting was suspended at 4.35 p.m. and resumed at 4.50 p.m.

Tenth periodic report of the Byelorussian Soviet Socialist Republic (CERD/C/172/Add.15)

At the invitation of the Chairman, Mr. Korotchenja and Mr. Ogourtsov (Byelorussian Soviet Socialist Republic) took places at the Committee table.

36. Mr. KOROTCHENJA (Byelorussian Soviet Socialist Republic) said that his country had a diverse population of approximately 10 million, consisting of Byelorussians (88 per cent), Russians (13.2 per cent), Poles (4.1 per cent), Ukrainians (2.9 per cent), Jews (1.1 per cent) and other nationalities (0.8 per cent).

37. During the period reviewed in the tenth periodic report (CERD/C/172/Add.15) the principle of national and racial equality affirmed by the Constitution of the Byelorussian SSR and guaranteed by current legislation had been consistently upheld.

38. The report, however, had been overtaken by the rapid pace of developments both in Byelorussia and the world at large, and many of the documents drawn upon in compiling the report had been superseded by new legislation recently enacted by the Byelorussian Parliament, in particular the Declaration on the State Sovereignty of the Byelorussian Soviet Socialist Republic. In its preamble the Declaration affirmed the principle of respect for the dignity and rights of persons of all nationalities living in the Byelorussian SSR, and article 2 stated that citizens of the Byelorussian SSR of all nationalities constituted the Byelorussian people, in which sovereignty was vested and which was the sole source of State authority in the Republic. The principles of the equality of rights of all citizens and strict compliance with international obligations were a recurrent theme in the Declaration.

39. As part of the process of legislative reform, a Constitutional Commission had been established in the Supreme Soviet of the Byelorussian SSR for the purpose of drafting a new Constitution, but significant changes in the existing Constitution had been introduced during the most recent session of the Supreme Soviet. Thus articles 6, 7 and 49 had been amended to affirm the

cardinal democratic principle of plurality of parties. In order to achieve the greater democratization of society and the strengthening of the rule of law, further legislation and other measures would be adopted to ensure full implementation of the basic provisions of the Covenant, which the Byelorussian SSR had been one of the first countries to sign and ratify. Byelorussia had consistently complied with the decisions and recommendations of international bodies aimed at eliminating racism and apartheid, including the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination.

40. His country had no relations with the South African racist régime, and had strictly maintained the economic, diplomatic and other sanctions imposed against South Africa. As proof of the Byelorussian people's deep hostility to the ideology and practice of apartheid and racism, the Presidium of the Supreme Soviet had ratified, on 19 May 1987, the International Convention against Apartheid in Sports. 1/

41. In conclusion, he said that in the Byelorussian SSR legislation which would significantly alter the relations between the individual and the State was currently in preparation, including new laws relating to land, property and freedom of the press. Details would be given in his country's eleventh periodic report.

42. Mrs. SADIQ ALI said that the Byelorussian report (CERD/C/172/Add.15) had been presented with commendable punctuality, and that it indicated the Government's willingness to maintain a regular dialogue with the Committee.

43. In view of the fact that the reforms which had been taking place in the Soviet Union during the previous five years must have influenced the Byelorussian Soviet Socialist Republic, there was a need for full information on new legislation, and especially on constitutional changes and amendments to existing laws, where they concerned racial discrimination and the promotion of understanding among all races. She hoped that such information could be provided in the next report.

44. Only one indication was given in the introductory paragraphs of the report of legislative changes, namely the Decision of the Presidium of the Supreme Soviet of the Byelorussian SSR of 21 July 1980 "On the work of the Soviets of People's Deputies of the city of Mogilev in considering approaches from citizens", which was intended to ensure that officials strictly observed current regulations and refrained from bureaucratic and insensitive procedures in dealing with people and requests. The Byelorussian SSR must be congratulated on taking a bold step in safeguarding the rights of individuals, but it might be premature to inquire whether any cases had been brought pursuant to the Decision: if they had, details could be given in the next report. She also wished to know whether cases of racial discrimination came within the scope of the Decision, which seemed to conform to articles 2 (a) and 4 (c) of the Convention, and whether it had been applied in the courts or entailed action only at administrative level. What were the current procedures for settling disputes involving violations of human rights?

45. In connection with article 2, paragraph 2, of the Convention, the report stated that on 30 May 1987 the Supreme Soviet of the Byelorussian SSR had

adopted a new Act on national education, which provided guarantees that national languages might be studied freely and that no privileges or discrimination of any kind would be allowed in that sphere. While the Act was to be welcomed as a progressive development in accordance with provisions of article 2, paragraph 2, and article 5 (e) (v), it appeared that mastery of Russian was a necessity for social advancement and that both Russian and Byelorussian were accorded precedence over other languages. Were national minorities thereby disadvantaged?

46. More information should be given with regard to the nationalities policy. For example, how many nationalities were given a guarantee that their languages might be studied freely, bearing in mind that some of them were obviously too small and might be scattered? How did the non-Russian and non-Byelorussian schools function? Did they have the requisite facilities, and did their pupils learn three languages? What was the standard of scientific and technological education for the national minorities? Was greater attention being given to the teaching of their history, culture and religion in schools, and what was the position of minority language publications? In what language was government business conducted? Finally, did Byelorussian enjoy the status of an official State language, and did Russian-speaking people learn a second language of the Republic?

47. She asked whether the quota system was still in operation as part of the affirmative action programme and as part of the broader nationality policy, especially in the universities and in white-collar employment. She asked whether there was a quota for the representation of national minorities in municipalities and at the Republic level.

48. The Constitution of Byelorussia and article 77 of the Criminal Code reflected the spirit of article 4. She wondered whether specific legislation was being contemplated to prohibit racist organizations in view of the ethnic diversity of the Republic and the growing violence in the Soviet Union generally, or whether the current Criminal Code was still thought to be adequate. Had there been any cases of racial discrimination, and if so what action had been taken in dealing with them?

49. A welcome development in terms of article 5 (b) of the Convention was the addition of a new article, article 124 (2), to the Criminal Code of the Byelorussian SSR making it a criminal offence, punishable by imprisonment for up to two years, to commit a healthy person to a psychiatric institution. Did the relevant Decree of February 1988 (Collective Acts of the Byelorussian SSR, 1988, No. 4, p. 60), which dealt with problems of psychiatric abuse, have retroactive effect and had any persons indulging in such practices been punished? Had persons been removed from the register of the mentally ill, if found normal, and had any commission been appointed to review the cases of patients in mental hospitals to determine which of them could be released? Could figures be furnished on the number of those released? In view of the demographic diversity of the country, they must include members of national and ethnic minorities. Another question in connection with article 5 (b) of the Convention was what action had been taken to revise the Criminal Code with regard to political prisoners in solitary confinement or in labour camps, and whether those released had been allowed to return to their families or their former places of residence.

50. With reference to article 5 (d) (ii) of the Convention, she asked how many Jewish families had been permitted to leave the country, and whether there was an increase in ethnic Polish emigration. Were any laws being passed to fulfil all the obligations relating to the political and civil rights set out in article 5 (d)? With reference to article 5 (e), she asked whether priority was being given to housing in view of the housing shortage throughout the Soviet Union.

51. The reference in the part of the report dealing with article 6 of the Convention (CERD/C/172/Add.15, p. 9) to "several new legislative instruments" introducing additional measures guaranteeing everyone effective protection and remedies needed clarification. The amended Code of Labour Laws referred to in the same paragraph was of great importance and the Committee would appreciate additional information on its implications and on any cases of action taken under it. If there had been any cases, had rapid and effective remedies been available to the citizens concerned?

52. With regard to articles 4 and 6 of the Convention, the Committee was still awaiting specific references to cases of discrimination and action taken by the authorities, as requested when it had considered the reporting State's previous reports. Had any recourse been available to individuals punished by the police for minor offences and were any campaigns being conducted by the Government to heighten legal awareness among the population? With reference to article 6, she wished to know whether any expeditious and effective remedies were available for protection against violations of human rights, including those relating to racial discrimination. Could victims request assistance from the Public Prosecutor, and was the latter entitled to institute proceedings when there were grounds for doing so? Could the Convention be invoked directly in Byelorussian courts?

53. In connection with article 7 of the Convention, did the school system include as one of its aims that of fostering understanding of ethnic differences, and did the curriculum include the study of different cultures and civilizations? Were teachers given any special training in the cultures of various ethnic groups? Was the phenomenon of racial discrimination covered by the media? Article 7 was particularly important in view of the ethnic conflicts taking place throughout the Soviet Union.

54. The Byelorussian SSR was to be congratulated on condemning the abhorrent system of apartheid. It was to be hoped that aid to Namibia had been resumed. It was most encouraging to note that the reporting State intended to take further legislative and other measures to implement the Convention.

55. Mr. KOROTCHENJA (Byelorussian SSR) thanked Mrs. Sadiq Ali for her detailed analysis and questions. In reply to the questions on education, under article 2 of the Convention, he said that guarantees were provided for the free study of the Byelorussian language. Steps had been taken to prepare schools and teachers for the study of Byelorussian, and to compile and produce textbooks in sufficient number and ensure their consistency with the new laws that had been adopted. The wishes of the people and individual students were being taken into account in promoting Byelorussian as a language of instruction and study. Byelorussian was an official, State language of the Republic.

56. With regard to persons committed to psychiatric hospitals, each oblast (administrative district) had similar hospitals providing treatment and care, and every patient was entitled to protection and appropriate medical assistance under existing legislation.

57. Mr. OGOURTSOV (Byelorussian SSR) said that Mrs. Sadiq Ali's comments and questions would provide a useful basis for the preparation of the next report. The answer to the question whether there was any specific legislation prohibiting racial discrimination was negative. However, the prohibition and punishment of all forms of discrimination, including not only discriminatory acts but also incitement to, and propagation of, racial or ethnic discrimination or hatred, underlay all provisions of the Constitution and the Criminal Code. He had no knowledge of any prosecutions in the Byelorussian SSR for that kind of crime. Tolerance towards all nations, peoples and ethnic groups was inherent in the Byelorussian character, as had been evident even in times of great tribulation.

58. No statistics were readily available on the number of healthy persons committed to psychiatric hospitals, but they had undoubtedly been very few in number. Responsibility for such cases lay with the same group of doctors who, as far as he knew, had been prosecuted, although he was unable to provide names or report specific cases. All patients who had been released had been given due compensation and employment.

59. He was unable to state exactly how many Jews had left Byelorussia, but the figure was no doubt fairly substantial as a result of the lifting of restrictions on travel abroad.

60. Although housing was not the Republic's primary problem, it was a very acute one. The Chernobyl disaster has displaced one fifth of the population of the Byelorussian SSR. The Government had arranged for the evacuation of the population, but resettlement in other areas placed an intolerable strain on the country's existing housing infrastructure. It was for that reason that his Government was asking the international community for urgent assistance.

61. In response to the question about the introduction of subjects relating to ethnic and cultural differences into school curricula, he said that in the Byelorussian SSR, as elsewhere in the world, children of school age were less prone to racially and ethnically discriminatory attitudes than adults, and it was not difficult to render children immune to racial discrimination. In the Republic, all children grew up together in harmony, and there was no evidence of racial conflict in schools.

62. He assured the Committee that all the questions asked had been duly noted and would be fully answered in the next report.

63. The CHAIRMAN thanked the representatives of the Byelorussian SSR, and said that the Committee looked forward to the next report, which would no doubt describe in detail the radical changes currently taking place in that

country. The Committee had thus concluded its examination of the tenth periodic report of the Byelorussian Soviet Socialist Republic (CERD/C/172/Add.15).

Mr. Korotchenja and Mr. Ogourtsov (Byelorussian Soviet Socialist Republic) withdrew.

Seventh, eighth and ninth periodic reports of Haiti (CERD/C/147/Add.2 and CERD/C/195/Add.1)

64. The CHAIRMAN suggested that, in the absence of a representative of the Government of Haiti, the Committee should proceed with the examination of the relevant reports.

It was so agreed.

65. Mr. FOIGHEL, expressing regret that no representative was present, said that the seventh, eighth and ninth periodic reports (CERD/C/147/Add.2 and CERD/C/195/Add.1) before the Committee merited the Committee's positive appreciation on several counts. For instance, commendable initiatives from a human rights point of view had been reported in paragraphs 5 and 9 of the ninth periodic report (CERD/C/195/Add.1).

66. The statement in paragraph 1 of the seventh periodic report (CERD/C/147/Add.2) and paragraph 4 in the ninth periodic report (CERD/C/195/Add.1) that racial discrimination, as defined in article 1 of the Convention, did not exist in Haiti, was important, since article 1 could be interpreted in two ways. If it was merely a rule addressed to Governments and did no more than prohibit any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin by a State party, then Haiti deserved to be congratulated, since there was no indication whatsoever that the Government of Haiti was responsible for any form of racial discrimination. If, however, article 1 was understood as merely describing the concept of racial discrimination and was to be seen in conjunction with article 4, then it was only proper for the Committee to conduct a further investigation into the possible existence of racial discrimination in Haiti. There were some items of information in the reports which were not consistent with the statement to which he had referred. One of them was in paragraph 16 of the seventh periodic report, stating that the Government had considered it necessary to adopt the decree of 4 February 1981, to establish safeguards against any attempted racial discrimination, which prompted him to ask why it had been necessary to do so.

67. The statement that racial discrimination did not exist in Haiti also conflicted with some reliable information in his possession about the situation in that country. In his view, it was proper for the Committee to ask the Government of Haiti whether there was not, at least, tension between the black, mulatto and white populations, and whether there was not some form of reverse discrimination in the business world in Haiti.

68. The statement in paragraph 37 of the seventh periodic report that, to be a member of the Chamber of Deputies, it was necessary to be a native-born Haitian might perhaps be discriminatory against Haitian citizens who were not

born in the country. Whether that was the case was difficult to see from the report, since no figures had been given on the demographic composition of Haiti - a shortcoming which he hoped would be corrected in the next report.

69. Mr. de GOUTTES said it was most regrettable that the Government of Haiti had been unable to send a representative, since consideration of the Haitian periodic reports (CERD/C/147/Add.2 and CERD/C/195/Add.1) was particularly important from a human rights standpoint. As the Committee was aware, Haiti was troubled by problems other than those relating strictly to racial discrimination, including extreme poverty, inequalities between the rural and the urban population, great insecurity with the activities of the "Tontons Macoutes", who remained to be disarmed, summary executions and acts of aggression, including recent attacks on human rights activists. Another crucial problem was that of ensuring security during the forthcoming elections and the regularity of those elections, on which he hoped full details would be provided in the next report. He also expected that report to include further information on the general situation prevailing in the country.

70. Mr. AHMADU, endorsing the very pertinent views expressed by Mr. de Gouttes, expressed regret that the Government of Haiti had not been represented, which would not have been the case had the Committee's session been held in New York.

71. The CHAIRMAN said that, despite the absence of a Government representative, the Committee's comments and questions on such important reports would be included in the Committee's report to the General Assembly.

The meeting rose at 5.50 p.m.

Notes

1/ General Assembly resolution 40/646, annex.

880th meeting

Friday, 17 August 1990, at 10.10 a.m.

Chairman: Mr. SHAHI

AGENDA ITEM 7

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (continued)

Fifth, sixth and seventh periodic reports of Italy (CERD/C/156/Add.1, CERD/C/182/Add.2)

At the invitation of the Chairman, Mr. Mezzalama, Mr. Citarella, Mr. Ludovici, Mr. Ribechi, Mrs. Germani and Mr. Benedetti (Italy) took places at the Committee table.

1. Mr. MEZZALAMA (Italy) said that, during the period covered by the fifth, sixth and seventh periodic reports submitted to the Committee (CERD/C/156/Add.1 and CERD/C/182/Add.2), his Government had had to face new situations connected with an increasing - and at times uncontrolled - flow of immigrants into the country. The problems relating to racial discrimination which the Italian authorities were having to tackle could be grouped into three categories: traditional problems due to the presence of linguistic minorities in the national territory; problems due to the presence of nationals from other countries of the European Community; and problems related to the immigration of nationals from countries outside the Community. It had been possible to deal with the first two groups of problems relatively easily. As far as the linguistic minorities were concerned, it was essential to give their aspirations the importance they deserved in order to achieve a well-balanced coexistence among the various regional cultures.

2. The reports showed that the Italian Government had sought to improve the protection of minorities and that the cases of racism mentioned in the previous two reports 1/ had been thoroughly investigated and judicial decisions had been taken.

3. With regard to the immigration of nationals from countries not belonging to the European Community, he said that it was very difficult to monitor the entry of such persons, most of whom came from African and Latin American countries. Some of those clandestine immigrants were driven to the margins of society or exploited in underpaid work often disregarding the required guarantees of assistance and social security. The concentration of that immigrant population in urban areas had sometimes created situations of tension and clashes with the rest of the local population.

4. The Government had set up a system of protection for foreign workers permitted to enter the country. Decree No. 416, converted afterwards into Law No. 39-1990, established legislation on conditions of residence and work for non-EC nationals who had been residing in Italy before 1 December 1989. In addition, controls on entry into Italian territory had been tightened so as

to offer the widest guarantees with regard to integration into working life and into the social structure of the country. Law No. 39-1990 was based on the assumption that uncontrolled immigration, above a tolerable ceiling, was bound to cause feelings of rejection and xenophobia in the local population. A period of grace had been granted to non-Europeans in an irregular situation to enable them to regularize their situation and obtain residence permits valid for two years. The exemption from sanctions of any kind had been extended to employers. Once the grace period expired, the above Law permitted the expulsion of those persons still in an irregular situation and called also for the issuance of entry visas to nationals of those countries from which most of the clandestine immigrants had been coming. The text of the Law had been published, for the benefit of immigrants, in a number of foreign languages.

5. At the same time, Parliament would shortly be considering new standards on health, cultural and social assistance, school attendance and housing for the immigrant population. In addition, it should be noted that the above-mentioned Law now allowed any person believing himself to be the victim of persecution in his own country to apply for asylum in Italy under the Convention relating to the Status of Refugees 2/ of 1951.

6. He would be ready to provide the members of the Committee with further information to supplement the reports before them.

7. Mrs. SADIQ ALI congratulated the Italian Government on the humanitarian attitude it was showing towards clandestine immigrants in allowing them to regularize their situation. She also paid a tribute to Italy's efforts to improve the conditions of detention of foreigners. The Italian authorities seemed to be working effectively to comply with their obligations under the International Convention on the Elimination of All Forms of Racial Discrimination. In that regard, paragraphs 4 and 5 of the sixth periodic report (CERD/C/156/Add.1) referred to legal provisions and measures adopted to improve further certain implementational aspects of the Convention, in particular Law No. 654 of 16 October 1975, which contained penal measures to implement article 4 of the Convention. The provisions of article 4 had not yet been implemented, which was rather surprising in view of recent opinion polls in Italy showing that a significant proportion of the population had racist or xenophobic prejudices. It should be remembered that, while the Fascist Party had been outlawed by the Constitution, there were other extreme right-wing parties in Italy today which could engage in Fascist-like practices. She cited one case of racist violence against an 11-year-old girl whose father, although an Italian national, was black and came from Sierra Leone. Had the Italian Government taken steps to prevent any repetition of serious incidents of that kind? The opinion polls also seemed to contradict the findings of an inquiry by the European Parliament which stated that Italy was one of the few European countries in which incidents of a racial nature were extremely rare. The situation thus appeared to be more serious than might have been believed.

8. She would welcome specific population figures in future reports on the linguistic minorities, nomads and foreign workers living in Italy. Paragraph 18 of the sixth periodic report indicated that on 31 December 1985 there had been approximately 120,000 foreigners from countries other than those of the European Community who had entered Italy legally and held a regular residence permit for employment reasons. How could that figure be broken down by national origin and by type of employment? The high unemployment in some areas, especially in the southern part of the country, forced many people to accept very hard working conditions. Did the same apply to foreign workers? If so, what steps were planned to remedy that situation? Could foreigners with residence and work permits claim Italian nationality and marry Italians if they were non-Europeans? Could they own property?

9. Recent provisions guaranteed increased protection for the German-speaking minority. Yet, the non-German-speaking population of the regions concerned in turn complained of being discriminated against in housing and employment. How did the Government intend to achieve a balance between those two groups?

10. With regard to the nomads (para. 15 of the sixth periodic report, and page 2 of the seventh periodic report), current policy seemed to be aimed at facilitating the incorporation of the nomads into Italian economic and social life. How was it then possible to maintain "the greatest respect for the extremely diversified cultural traditions of the various ethnic groups which are found among the nomads"? What was the literacy rate among the nomads? What were their conditions of housing and employment?

11. The Italian legal system was exemplary. Yet the excessive length of pre-trial detention seemed to be a real problem in Italy. Were there safeguards against possible abuses in that area? Trial procedures were very long, too, and organized crime remained a serious problem in Italy. What solutions were being contemplated by the authorities?

12. The representative of Italy had explained in his oral presentation that it would be difficult to study all court decisions in order to determine which cases had involved racial discrimination. It might, however, be possible to carry out a survey, asking a sample group of courts whether cases of racial discrimination had come before them, and to include the findings of the survey in the next report.

13. With reference to article 7 of the Convention, school curricula would have to be reoriented to promote understanding in local communities of the problems of foreigners and immigrants. Was it proposed to include information courses on the aims of the Convention in school curricula? Were teachers, police officers, judges and other public officials made aware, through their training programmes, of human rights problems? Was the content of the education given in private schools monitored by the State in order to prevent the dissemination of racist ideas? She thanked the representatives of Italy in advance for their answers to those questions.

14. Mr. WOLFRUM endorsed the above comments. He, in turn, commended the quality of the reports (CERD/C/156/Add.1 and CERD/C/182/Add.2) submitted by Italy but would also like to have more information on certain points.

15. None of the reports contained data giving a breakdown of the various ethnic groups living in Italy. However, paragraph 10 of the seventh report referred to three regional laws enacted to provide specifically for nomads. One was entitled "Measures for the protection of the Romany people". Were all nomads living in Italy Romanies or were there also nomads of different origin?

16. The fifth and sixth periodic reports had already mentioned various legislative proposals designed to protect the linguistic minorities. It appeared from the seventh periodic report that those proposals were still under consideration by Parliament. Why was it taking so long to pass those measures, which were so important for the linguistic minorities?

17. Paragraph 3 of the seventh periodic report referred to two decisions of the Constitutional Court. The first, No. 0555 of 1988, had revoked the provisions of article 5 of Law No. 86 of 26 March 1986, which had not observed the principle of bilingualism in the case of the inhabitants of the Trento electoral district. He would be grateful for details about the actual provisions of that law.

18. The same paragraph mentioned a second decision revoking certain provisions which had not provided for the application of the relevant laws in force in the autonomous Province of Bolzano with regard to proportional ethnic representation and parity of languages. What were the "relevant laws"?

19. Was it possible for an accused person to express himself in German in all Italian courts or only in some regions?

20. With regard to economic and social rights, he asked whether the standard of living of the nomads in the northern part of the country, a region known for its prosperity, was comparable to that of other population groups.

21. Lastly, he recalled that the Senate had just passed a law setting an annual quota for immigrants from non-European countries. Did that law include provisions guaranteeing that there would be no racial discrimination in the processing of applications for immigration?

22. He thanked the representatives of Italy in advance for their replies to those questions.

23. Mr. de GOUTTES remarked first of all that Italy represented a very interesting case for the Committee, since it was a country open to migrant workers and refugees and, in addition, had national minorities. He expressed regret that the seventh periodic report (CERD/C/182/Add.2), unlike the fifth and sixth reports (CERD/C/156/Add.1), did not treat each article of the Convention separately or give specific population figures for the minorities and migrant workers. He would also like the Italian delegation to provide

information on the number of complaints brought before the courts and the number of sentences handed down by judges for racial discrimination.

24. In regard to article 5 (a) and (b) of the Convention, he would like to have details about the reform of the Italian Code of Penal Procedure, which had replaced the inquisitorial system by an accusatory system in order to speed up procedures and enhance the rights of the defence. What were the initial results of that reform? In its report for 1989, Amnesty International had cited cases of detainees who had been discriminated against because of the "political" nature of their acts or on account of being foreigners. What was the actual situation in that regard? Lastly, Amnesty International had also reported instances of conscientious objectors being charged and he would be grateful for information about those cases.

25. Mr. FERRERO COSTA commended the Government of Italy taking every possible step to propagate the international human rights instruments and hoped that the Convention was included in those efforts. Had the population, and in particular the minorities, been informed of the rights conferred on them by the Government's declaration under article 14 of the Convention?

26. He would like the Italian Government to supply more information about the new measures it had taken to implement the Convention. It would be necessary to know the scope of the bill for the protection of linguistic minorities referred to in paragraph 2 of the seventh periodic report (CERD/C/182/Add.2) in order to be sure that it was fully consistent with the Convention. In regard to article 3 of the Convention, he asked what was the current state of relations, especially trade relations, between Italy and South Africa. It would also be useful if the next report could provide figures on migrant workers in Italy. Lastly, it would be very interesting to know exactly what was being done in Italy to implement article 5 of the Convention, especially paragraph (e), subparagraphs (i) (right to work), (iii) (right to housing) and (v) (right to education).

Mr. Vidas (Vice-Chairman) took the Chair.

27. Mr. BANTON first of all expressed the hope that Italy would live up to its reputation and that its will to counter discriminatory practices would always be as strong. The steps taken recently by the Italian Government to improve the situation of clandestine workers were praiseworthy and it would be interesting in that regard to know what percentage of migrant workers had not, for whatever reason, regularized their situation.

28. The Government was aware of the need to inform migrant workers of their rights, but it would seem that many did not dare to invoke those rights for fear of losing their jobs. He would like to know how matters stood in that regard. It had always to be borne in mind that the State was not all-powerful, but it was nevertheless regrettable that the legislative provisions on the prevention of racist propaganda were under-utilized. In that regard, the last sentence of paragraph 5 of the sixth periodic report (CERD/C/156/Add.1) was in his view very disappointing.

29. As Mrs. Sadiq Ali had observed, it appeared that many Italians - like many Europeans in general - felt superior to immigrants. No one could deny that they were economically superior, but it was necessary through education to reduce any racial component of that feeling of superiority.

30. Lastly, he observed that local ethnocentrism was very strong in Italy, and he felt that the strategy for combating racist attitudes should therefore be pursued in three stages: first, identify the nature of the problem; then adopt the necessary measures to resolve it; and, lastly, assess what progress had been made.

31. Mr. YUTZIS said that he was gratified by the quality of the dialogue which the Committee had established with the Italian Government. He would like to have more specific information about the measures taken in Italy to implement article 2, paragraph 1 (e), and article 4 of the Convention. With regard to the implementation of article 3, he asked whether the Italian Government planned to change its policy towards South Africa following the release of Mr. Mandela.

32. He would like the Italian delegation to explain what in its view were the psychological and sociological causes of the serious racial incidents that had been reported in Italy over the past 18 months. He thought that at a later session the Committee should follow the approach suggested by Mr. Banton and ask: (a) what were the causes of such social behaviour; (b) what overall strategy should be adopted to remedy the situation (educational efforts, legal measures, etc.); and (c) how could the impact of that strategy on racist or discriminatory behaviour be evaluated. Lastly, he expressed concern over the increasing number of cultural, economic and political signs pointing to a resurgence of racial discrimination in the European Community, a phenomenon which could have very serious implications.

33. Mr. MEZZALAMA (Italy) said that he appreciated the Committee's valuable comments and stressed that his delegation had come to the Committee table not only to answer questions but to learn.

34. Mrs. Sadiq Ali had given statistical information which tended to contradict the idea that the Italian population was free from racial prejudice. His Government would certainly verify the source of those figures to see whether they were well founded and, if necessary, take the appropriate measures. However, he felt that in racial matters the vast majority of Italians were broad-minded and tolerant.

35. Regarding the legislative provisions on the immigration of persons from outside the European Community, the sole purpose was to curb immigration, since above a certain level it could well give rise to racist sentiments in the population.

36. The nomads posed a difficult problem as their customary great mobility had to be reconciled with the need for a somewhat more settled way of life, without which it was impossible, for example, for the children to attend

school. In many nomad groups, a disturbing rise in delinquency (especially thefts and exploitation of juveniles) had also unfortunately been observed, and that had caused negative reactions among the settled population. The only solution appeared to be the gradual assimilation of those populations, especially through education.

37. Under the Italian Constitution, any international convention ratified by Italy was applicable directly. For that reason, there was no special law on racial discrimination.

38. Regarding the implementation of article 4 of the Convention, it should be pointed out that paragraph 5 of the sixth periodic report (CERD/C/156/Add.1) was no longer up to date. Since 1987, the courts had in fact heard various cases involving racial discrimination. In Florence, for example, criminal proceedings had just been brought against 13 persons for racial intolerance. It should be realized, however, that the incidents in that city, to which Mr. Yutzis had presumably been referring, had resulted from very particular circumstances. The presence of unlicensed African street vendors had angered Florentine shopkeepers selling the same goods but having to pay taxes. They had therefore been protesting mainly about unfair competition. Things should return to normal, now that many of those Africans had regularized their situation.

39. With regard to the German-speaking minority in Alto Adige, the solution found for preserving their linguistic and cultural identity had been cited as an example on several occasions, notably at the CSCE Conference on the Human Dimension held at Copenhagen 3/ in June 1990. It was the result of an agreement Italy had concluded with Austria, an international commitment that it was therefore bound to respect. However, if it appeared that the rights of the Italian-speaking minority were actually being infringed, every effort would obviously be made to remedy the situation.

40. Mr. de Gouttes had raised the question of pre-trial detention. The new Italian Code of Penal Procedure which had entered into force in September 1989 had revolutionized the legal system. The inquisitorial procedure had been replaced by an accusatory procedure and the length of pre-trial detention had been apparently reduced, with several thousand persons being released immediately. However, exceptions were made for trials involving large numbers of individuals, for example in cases relating to terrorism or the mafia: the pre-trial proceedings, which were extremely complicated in such cases, might well last two or three years, and it was much too great a risk to leave the accused at liberty.

41. As to conscientious objectors, the Constitutional Court had decided recently that civilian service should be of the same length as military service (11 months). Needless to say, objectors could not refuse to perform civilian service as well. If they attempted to evade it, they were breaking the law and the authorities were entitled to take action.

42. On the question of the education of minorities, he preferred to give the floor to Mr. Ribechi.

Mr. Shahi resumed the Chair.

43. Mr. RIBECHI (Italy) said that the incident in a Milan school referred to by Mrs. Sadiq Ali was a completely isolated case. Although there were still very few immigrant children in schools, the Ministry of Education, looking to the future, had taken some very important steps. In September 1989, for example, it had issued a circular instructing school directors to encourage the integration of such children.

44. In addition, the directive of the Commission of the European Communities stipulating that the children of immigrant workers from Community countries must be given a complete education and that they were furthermore entitled to be taught in their mother tongue would be applied also to the children of workers from outside the Community. A new circular was also under preparation, calling in particular for teaching experiments aimed at providing a multicultural education. Lastly, the President of the Republic was expected to issue a decree shortly concerning the equivalency of qualifications and diplomas.

45. Mr. MEZZALAMA (Italy), replying to a question from Mrs. Sadiq Ali, said that non-European immigrants had the right to marry Italian nationals and could own property provided that they were nationals of countries which had concluded a reciprocal agreement with Italy.

46. With regard to the teaching of human rights, pupils at primary and secondary schools took courses in civics which dealt with those rights, and special courses were organized at a higher level for officials such as judges and police officers. In addition, Italy was cooperating with the Centre for Human Rights in the training of judges from Latin America and, in the near future, from Africa.

47. It had been asked why it took so long to pass laws in Italy. One reason was that the Legislative Assembly might be dissolved before reaching the end of its term of office, whereupon the bills before it automatically lapsed. Once the new Assembly was elected, the process then had to begin all over again. In addition, bills had to be approved both by the Chamber of Deputies and by the Senate. Any amendment introduced by the Senate meant sending the bill back to the Chamber, hence the slowness of the procedure.

48. Lastly, concerning relations with South Africa, Italy strictly applied all the sanctions decided on by the European Community and the United Nations, and would continue to do so until there was a real improvement in the situation in that country.

49. Mr. LUDOVICI (Italy), replying to Mr. Wolfrum, said that it was very difficult to compile detailed statistics on the German-speaking population in Italy. There were many provincial dialects and often several languages were spoken in the same family. In any event, the German-speaking minority in Alto Adige had been described in an article which had appeared a few years before in Der Spiegel, as "the best-protected minority in Europe".

50. On the number of foreigners lawfully resident in Italy, he could provide the following details: on 30 June 1990, there had been 138,000 nationals of member countries of the European Community; as to persons from other countries, there had been 522,000 at the end of 1989, but since that time about 200,000 more had taken advantage of the "grace period" allowing them to regularize their situation; in all, therefore, there were now some 860,000 foreigners lawfully residing in the country. People who claimed to be visiting Italy as "tourists" but in fact intended to work there were very likely to be exploited. Admitting them would be contrary to the spirit of the new law on foreign workers, and it was therefore Italy's policy to turn them back at the border. In the first half of 1990 alone, 33,000 foreigners had thus been refused admission to the country.

51. Mr. de Couttes had spoken of pre-trial detention. Under the new Code of Penal Procedure, the maximum length of detention pending trial was now four years. Lastly, with regard to human rights education, a major effort was being made to raise awareness of human rights issues among police officers. Information courses were being organized for them at all levels.

52. Mrs. GERMANI (Italy) said that immigrant workers from non-Community countries enjoyed the same rights as Italian workers once they had regularized their situation. Law No. 943 of 1986 allowed work permits to be issued to foreigners when the local employment agency had verified the conditions offered by the employer, which must be no less favourable than those proposed to Italian workers. Immigrant workers' associations were, in addition, represented in the bodies set up to monitor implementation of the right to work, and the employment agencies had special services whose task was to help immigrants.

53. The CHAIRMAN, thanking the representatives of Italy, said that the Committee had concluded its consideration of the fifth, sixth and seventh periodic reports of Italy (CERD/C/156/Add.1 and CERD/C/182/Add.2).

Mr. Mezzalama, Mr. Citarella, Mr. Ludovici, Mr. Ribechi, Mrs. Germani and Mr. Benedetti (Italy) withdrew.

The meeting was suspended at 12.15 p.m. and resumed at 12.30 p.m.

Eighth and ninth periodic reports of Cameroon (CERD/C/171/Add.1)

At the invitation of the Chairman, Mrs. Gwanmessia and Ms. Boum (Cameroon) took places at the Committee table.

54. Mrs. GWANMESSIA (Cameroon), introducing her country's eighth and ninth periodic reports (CERD/C/171/Add.1), said that Cameroon had not been unaffected by the wind of reform blowing across Africa, as could be seen from the information contained in the latest periodic reports and from the additional information she would provide orally to the Committee.

55. Act No. 87-009 of 15 July 1987 amending Ordinance No. 72-5 of 26 August 1972 pertaining to the organization of military justice had introduced many innovations in that institution. Thus the Minister of Defence, on the instructions of the head of State, could now terminate criminal proceedings on the principle of nolle prosequi.

56. Act No. 87-18 of 15 July 1987 reorganizing the legal profession replaced Act No. 72/LF/5 of 23 May 1972 and sought to ensure better protection of justiciable persons by limiting the exercise of that profession to qualified lawyers.

57. Act No. 001 bis of 27 July 1989 amending and supplementing Ordinance No. 72-4 of 26 August 1972 on the organization of the judiciary extended the powers and jurisdiction of the courts of first instance both in civil and in criminal matters in order to bring justice nearer to the people. Those courts could now grant bail.

58. Act No. 89-018 of 28 July 1989 amending Act No. 75-16 of 8 December 1975 governing the procedure and functions of the Supreme Court now permitted appellants to submit applications to the Supreme Court by letter.

59. Act No. 89-20 of 29 December 1989 on the execution of court judgements provided that once there was an appeal against a decision, execution of that decision was stayed in order to stop the abuses of provisional execution of court decisions under the former laws. However, the suspensive effect did not apply to the payment of alimony or hospital expenses arising from bodily injury.

60. With regard to article 2 of the Convention, a Ministry of Women's Affairs had been created on 4 February 1984 and had merged in 1988 with the Ministry of Social Affairs, which was now known as the Ministry of Social and Women's Affairs. It was responsible for the welfare of women, children and the disabled. In addition, a consultative committee for the advancement of women in Cameroon had been set up on 7 November 1985, and its work had led to the adoption of Act No. 88-011 of 15 July 1988 authorizing the head of State to ratify the Convention on the Elimination of All Forms of Discrimination against Women. 4/

61. With regard to article 3 of the Convention, the apartheid system was still in force in South Africa despite the release of Nelson Mandela and Cameroon's position on that question therefore remained unchanged.

62. Concerning article 4, the members of the Committee had noted that the Penal Code of Cameroon had not declared certain forms of racial discrimination to be punishable offences. The Government was currently looking into that matter. It should be noted in that regard, however, that the question of race did not arise in Cameroon. Nevertheless, there were more than 200 tribal or ethnic groups in the country and Cameroon was seeking to ensure that they all enjoyed the same rights and advantages through the system of planning it had established.

63. Concerning the right to equal treatment before the tribunals (art. 5 (a) of the Convention), if an accused person or a witness could not understand the language used in the court because the services of a sworn interpreter were not made available, the decision of the court was declared null and void. Moreoever, while an accused could in general be defended by a member of his family or by a person to whom he had given power of attorney to represent him, it was obligatory for him to be represented by a lawyer if his case was heard by the Supreme Court.

64. For historical reasons, criminal procedure derived either from common law or from French law, depending on the region concerned. The aim of the new Code of Penal Procedure currently being drafted was to harmonize those two types of procedure. She mentioned a number of acts, ordinances and decrees which were aimed at protecting the rights of the individual and guaranteeing the presumption of innocence: except in cases involving serious offences or flagrante delicto offences, no one could be arrested unless a warrant was issued pursuant to a complaint lodged with the Government Attorney; all courts empowered to hear criminal cases could grant bail; no one could be tried more than once for the same offence; all trials were public and if a trial had to be held in camera for reasons of public morals, the decision must be rendered in public. Abuse of authority and infringements of civil rights were treated as offences under the Penal Code; police custody was limited to 24 hours, and that period could be renewed twice, but any further extension required the authorization of the Government Attorney.

65. The accused's rights were protected during the trial by the following provisions: witnesses were required to testify under oath and could be examined by the defence; the burden of proof rested with the prosecution; proof must be established beyond reasonable doubt; a penalty could be inflicted only after proof of a lawfully defined offence; and the accused was discharged if he had no case to answer or acquitted if the offence was not proven.

66. With regard to article 5 (c), the head of State had signed Order No. 416/CAB/PR of 20 July 1990 establishing a commission for the revision of laws pertaining to civil liberties and, on 11 August 1990, he had signed a number of decrees ordering the release of prisoners who had been convicted of the offence of subversion.

67. Regarding article 5 (d)(ii), it was currently being debated whether there was any further need for exit visas for Cameroonian citizens, and the commission for the revision of laws pertaining to the public interest established by Order No. 406/CAB/PR of 28 July 1990 was looking into all the restrictions on the exercise of the right of a Cameroonian citizen to leave his country (CERD/C/171/Add.1, para. 31).

68. It should be noted with regard to article 5 (d)(viii) that contempt of race or religion was treated as an offence under the Penal Code. On the right to education, she pointed out that higher education in Cameroon was free of charge.

69. She informed the Committee that Cameroon had since 1988 been implementing a structural adjustment plan aimed at stabilizing public finances, restructuring the banking and financial system, rehabilitating public and semi-public corporations and reprogramming public investments.

70. In conclusion, she recalled in regard to article 7 of the Convention that the policy being carried out by the Government to ensure national harmony and the full development of every individual living in Cameroonian territory had been described in detail in Cameroon's previous reports.

The meeting rose at 1.05 p.m.

Notes

1/ CERD/C/46/Add.1 and Corr.1 and CERD/C/104/Add.2

2/ United Nations, Treaty Series, vol. 189, p. 137.

3/ See International Legal Materials, vol. XXIX, No. 5, September 1990.

4/ General Assembly resolution 34/180, annex.

881st meeting

Friday, 17 August 1990
at 3.15 p.m.

Chairman: Mr. SHAHI

AGENDA ITEM 7

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (concluded)

Eighth and ninth periodic reports of Cameroon (CERD/C/171/Add.1) (concluded)

At the invitation of the Chairman, Mrs. Gwanmessia and Ms. Boum (Cameroon) took places at the Committee table.

1. Mr. SONG Shuhua commended the substance and form of the eighth periodic report (CERD/C/171/Add.1), which had been prepared in accordance with the Committee's guidelines and included details of recent developments in Cameroon, with particular reference to article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination. He welcomed the additional information provided by the representatives of Cameroon. Credit was due to the Government of that country for maintaining its position against apartheid.

2. Since the Penal Code did not appear to cover all cases of racial discrimination that might arise, he wished to know whether the provisions of the Convention could be invoked directly vis-à-vis the administrative authorities and in the courts.

3. Since Cameroon was a multiracial and multi-ethnic country with some groups economically and socially less developed than others, he requested details of any measures taken to help minority groups in less developed areas. Although less advantaged groups clearly enjoyed equal civil rights, further information was required on their economic and social rights, especially in respect of health, education and training.

4. The resettlement of pygmies, reportedly numbering about 50,000 in the south-eastern part of Cameroon, raised the question of their living conditions in the resettlement areas. Information was needed on measures taken to improve those conditions and to develop the new pygmy village communities.

5. The report had omitted any reference to illiteracy and school enrolment rates in Cameroon, a shortcoming which he hoped would be rectified.

6. With reference to article 5 of the Convention, he wished to know to what extent the languages and cultures of the various ethnic groups, including pygmies were reflected in elected bodies, and specifically, how the groups were represented in such bodies in percentage terms.

7. In connection with article 7 of the Convention, were English and French versions of the Convention available for use in education and for the dissemination of the principles embodied in the Convention and other human rights instruments?

8. Mr. AHMADU congratulated the Government of Cameroon on its continuing dialogue with the Committee and its serious approach to human rights issues. It was one of the few Governments in Africa that submitted its periodic report, paid its contributions regularly and sent experts to explain its reports to the Committee. He recalled the chequered past of Cameroon, a country he knew well, and its emergence as a multiracial, multi-ethnic, multilingual independent State.

9. The periodic report (CERD/C/171/Add.1), together with the additional information circulated to the Committee and the explanations given by the representatives of the Government, was most informative, even if some of the issues dealt with did not fall strictly within the scope of the Convention. One shortcoming was the lack of demographic information, and he regretted the absence of figures resulting from the 1986 census.

10. He welcomed the promulgation of the Act establishing urban communes with municipal councils presided over by elected mayors, and wished to know how many mayors had been elected. He also asked whether the governors of the 10 provinces were still appointed by the Federal Government, or whether they were now elected, pointing out that they wielded considerable power and that many of them did not belong to the ethnic group prevalent in their particular province.

11. The Act establishing the conditions for the election of representatives to the National Assembly was a very important one, since representatives now knew which constituency they represented and could therefore cater to its specific needs. The information provided on education was welcome. He was able to confirm that education, especially primary education, for Cameroonians and foreigners alike, was to all intents and purposes free of charge. Aware as he was that there had been considerable debate in the past about whether the British or French system of education should prevail, he wished to know whether university education had now been harmonized.

12. With reference to paragraphs 9 and 10 of the report, it was gratifying to know that trade union elections were carefully screened and controlled. The legislation in that regard represented an important step forward.

13. On the subject of refugees, the figures reported were somewhat higher than might be expected, with the ending of the civil war in Chad in 1987. It sometimes happened, in other international forums as well, that Governments reported inflated refugee figures, for various reasons.

14. In connection with article 5 (b) of the Convention, he referred to the two sometimes conflicting systems of law which coexisted in Cameroon, two of the provinces applying the British system and the eight others the French system, a situation which caused some confusion with movements of the population from one province to another and had made it difficult to harmonize the law in the past. In the same connection, he referred to the investigations carried out by criminal police officers referred to in paragraphs 20 to 24 of the ninth periodic report. He knew that criminal

police officers frequently visited private residences in the very early hours of the morning and rather more often than seemed necessary, and wished to know whether, according to the provisions of the Code of Criminal Procedure, they were issued with magistrates' warrants before effecting their visits.

15. With the wind of democratic change sweeping through Africa, Cameroon, through a stable democracy, was under close scrutiny. For the time being, the only legal political party was the government party and he understood that those who advocated a multi-party system were detained, intimidated or arrested. He asked what progress had been made towards a multi-party democracy. It was gratifying to note that the system of exit visas applied to everyone, citizens and foreigners alike, and that the system might soon no longer be necessary.

16. Cameroon was a country in which there was still, to his knowledge, some discrimination against women. A woman could not be issued with a passport, for instance, without her husband's approval, which was not always forthcoming. It was gratifying, however, that a Ministry of Women's Affairs had been established, that the Government was addressing the issue, and, indeed, that the reporting country's representatives were women.

17. The Committee had been informed of numerous pronouncements by the President of Cameroon. He would like to know whether they had the force of law and, if not, he hoped that they would be translated into law. A matter of particular concern to him was the case of a number of persons who had been detained after the attempted coup in Cameroon in April 1984 and were reportedly still being held without trial. The matter was of special interest to the Committee, since the attempted coup was thought to have been masterminded by a particular racial group. He requested details of the situation of the detainees, and hoped that his information was incorrect and that they had now been tried and sentenced, or released. A particular case concerned the wife of a Cameroonian ambassador who had been arrested and sentenced for having had foreknowledge of the attempted coup but failed to report it. There had been many appeals on behalf of the woman concerned, and he wished to know whether she was still serving her sentence or had been released.

18. Mr. WOLFRUM said he had also been surprised that the figures emerging from the 1986 census were not yet available, and asked when the results were expected. Referring to paragraph 7 of the document supplementing the information provided in the ninth periodic report (CERD/C/171/Add.1) circulated to the Committee, concerning the electoral system in municipal councils, he asked why there were 20 councillors for a municipality with a population of less than 40,000 and only 60 for a municipality with a population of more than 200,000.

19. In view of Cameroon's difficult economic situation, the Government was to be commended for extending hospitality to so great a number of refugees. Many of them had been in Cameroon for some time and he requested information on their economic situation and on housing and educational provision for them.

20. Article 1 of the Convention did not refer solely to race but also to ethnic origin. In that connection, he would welcome additional information on the specific situation of ethnic groups in Cameroon with regard to religion, language and traditions. He was interested, in particular, in the situation of the pygmies and Bantus and would like to know whether they could preserve their identity. He would also like to know whether they received any help from the Government, how far they had been integrated into public life, the army, the judiciary, the administration and police and whether they had access to education.

21. With regard to papagraph 19 of pages 5 and 6 of the supplementary document circulated to the Committee, he welcomed the fact that French or English could be used in court and that where any party could not understand the language employed by the court, the use of a sworn interpreter was obligatory.

22. Mr. de GOUTTES noted that the periodic report (CERD/C/171/Add.1) of Cameroon was consistent with the guidelines of the Committee.

23. There were three points which should be developed further. The first related to the question of statistical data on the composition of the population, as determined by the 1986 census. He would also welcome statistics on refugees, in particular those from Chad, and would like to know whether there had been any change in the situation since the ninth periodic report.

24. Secondly, with regard to the updating of the Cameroonian Penal Code and the Code of Criminal Procedure referred to in paragraphs 16, 17 and 22 of the report, it would be interesting for the Committee to have information on the progress of those reforms in order to obtain a better idea of provisions which might ensure the protection of citizens with respect to the rights set forth in articles 5 (a) and (b) of the Convention. According to a report by Amnesty International in 1989, some opponents of the régime had been detained without charge or trial for attacks against the public order under emergency provisions. He hoped that the representatives of Cameroon could provide some information on that subject in order to allay the concern of members.

25. Thirdly, with respect to the statement in paragraph 40 of the ninth periodic report that the principle of freedom of expression and of the press was subject to the restrictions required to safeguard national unity and security, public order and morals, he would welcome information on the application of such restrictions. Could the Cameroonian representatives mention actual cases in which restrictions had been imposed?

26. Mr. BANTON said he hoped that the Cameroonian representatives would inform their Government that there was some impatience in the Committee at being provided with information not relevant to the Convention. Giving an example of information that might have been included, he said that if a person was recruited or dismissed not on the basis of his or her qualifications but because he or she was of a certain ethnic origin, that constituted

discrimination for the purposes of article 5 of the Convention. The reporting party had an obligation to deal with such discrimination, and the Committee had not been given information in the report to show that it was fulfilling that obligation.

27. Mrs. GWANMESSIA (Cameroon) said with regard to article 4 of the Convention that the Cameroonian Penal Code did not at present cover all the principles mentioned in that article because of the historical, political and legislative changes that had occurred in the country. In 1984 the Constitution had been amended and her country had become the Republic of Cameroon. It was in the process of updating the Penal Code.

28. Her Government recognized that the new Code should take account of the questions raised by members of the Committee. It should, however, be noted that the current Code, contained provisions such as section 241 and 242, which provided for punishment for racial or religious discrimination. It also stated that its provisions were subject to the rules of international law.

29. Multiracism did not present a problem for Cameroon. There were more than 200 ethnic groups in the country and in order to facilitate communication in education and training, and thus comply with article 5 of the Convention, the Constitution provided that the country's official languages were English and French.

30. All citizens enjoyed the right to medical care and education on an equal footing. There were hospitals at district, subdivisional, divisional and provincial levels and the same was true of education. As a result, those facilities were available to all persons wherever they lived.

31. Parliamentary elections in Cameroon were based on electoral constituencies and were held at the district, subdivisional, divisional and provincial levels. Consequently, those elections cut across ethnic groups.

32. Ms. BOUM (Cameroon) said, with regard to the pygmies, that they were a people constantly on the move but that her Government was trying to ensure their access to education.

33. It had been asked whether the Convention was published in Cameroon in English and French. All Cameroonian legislation was published in those two languages and the Convention formed part of Cameroonian law.

34. On the question of population statistics, a census had been taken and the results would be given in her country's next periodic report. The Government had encountered difficulty in collecting the relevant data, since the census had been carried out not only in urban areas but also in remote districts and the people did not always understand why the information was needed.

35. With regard to her country's administrative and demographic structure, she said that it consisted of 10 provinces and 49 departments. In 1986, the population had numbered 10,306,077. Persons below 6 years of age constituted

21.85 per cent of the population; those between 6-14 years, 23 per cent; those between 15-54 years, 47 per cent; and those over 55 years of age, 7.91 per cent. With respect to education, there were 1,715,319 students in primary schools, 256,449 in secondary schools, 83,219 in technical secondary schools and 15,257 in higher educational institutions.

36. Mrs. GWANMESSIA (Cameroon) said that, as provided in the Constitution, English and French were official languages in Cameroon. In order to be successful in any field, it would be advantageous to know both languages.

37. With regard to the number of mayors in the country, according to the 1987 Act on the Election of Municipal Councillors, there were 39. As to whether governors were still appointed by the Government, under the Constitution, it was the duty and prerogative of the Head of State to appoint civil officials and military personnel. With regard to education, efforts were being made to include the best from French and English culture with a view to safeguarding the unity of the State.

38. Mr. Ahmadu had asked whether candidates in trade union elections could conduct an election campaign. The names of candidates for staff elections were posted 21 days beforehand, and candidates were then free to lobby voters. Mr. Ahmadu had further asked about the number of refugees in Cameroon. Full details would be provided in the next report, but she could say from personal experience that there were still many refugees in Yaoundé, and she was not sure why the Committee thought there were not.

39. Mr. Ahmadu had asked a question about police visits to private homes. He had presumably visited Cameroon before it had become independent, when many measures had been necessary to preserve law and order and prevent terrorism. Now the country was quiet and peaceful. Since 1974, Cameroon had been trying to harmonize the two criminal law systems - the British and the French - which it had inherited from colonial days. A new draft criminal procedure ordinance stated that police officers who harassed witnesses or entered a private house without a warrant were liable to criminal prosecution.

40. Mr. Ahmadu had further asked whether the pronouncements made by the Cameroonian Head of State, particularly his speech on 28 June 1990, had the force of law. That was not the case, but the speech had been an important policy statement, and measures were already being taken to implement it. For instance, on 20 July 1990, the Head of State had signed Decree No. 416 establishing a commission to review the law as it related to human rights and public freedoms. That Commission had already begun its work. On 11 August 1990, he had signed a decree ordering the release of political prisoners.

41. In his statement on 28 June, the Head of State had announced moves towards greater democracy, including the lifting of restrictions on the press, freedom of association and freedom of movement. He had called upon members of the ruling party to denounce abuses, resist fraud and corruption and preserve law and order. He had told them to remember that other schools of thought

existed besides their own; their party was strong, but it must prepare for possible competition in accordance with its ideals of tolerance, peace and freedom. As the Committee could see, therefore, Cameroon was making considerable progress towards full democracy.

42. Mr. Ahmadu had asked about discrimination against women in Cameroon. Surely the fact that her entire delegation was made up of women was proof that women enjoyed a high status in Cameroonian society. The Government had ratified the Convention on the Elimination of All Forms of Discrimination against Women 1/ in 1988.

43. Mr. Ahmadu had asked about alleged cases of detention without trial during the attempted coup in Cameroon. Naturally, during a time of civil disturbance, there was always a great deal of confusion; many people had been arrested in Cameroon, but that did not automatically mean that they would be convicted and imprisoned. The decree signed by the Head of State on 11 August 1990 had led to the release of all those detained during the attempted coup, as well as other prisoners serving short terms of imprisonment for less serious crimes. She did not think that anyone was still detained in connection with the attempted coup, except those prisoners who had been lawfully convicted and sentenced to a term of six years' imprisonment or more.

44. Ms. BOUM (Cameroon) said with reference to Cameroon's official languages that all administrative workers in the country chose either English or French as their working language, and dealt with files in their own language. Regarding the number of refugees in the country, some members had suggested that the number stated in paragraph 12 of the report (CERD/C/171/Add.1) was too high. Perhaps they thought that the refugees from Chad had returned home now that the situation in Chad had settled down, but in fact many Chadians were still afraid to return home, and the Cameroonian Government would not send them back against their will.

45. Members had asked whether the speech made by the Cameroonian Head of State on 28 June 1990 had the force of law. In fact, the speech did not have any legal force, but was a historic statement which had been eagerly awaited for several months, and its implications had been widely discussed in the Cameroonian press. The measures announced would now be discussed by the National Assembly, which would pass specific laws to implement them.

46. Some members of the Committee had said that much of tne information contained in the report was not relevant to the subject of racial discrimination. Her Government had, however, considered that a wide range of information relating to education, health and similar matters could be seen as relevant to the subject of racial discrimination. It had, accordingly, provided the Committee with the information at its disposal, rather than repeat information contained in previous reports, but if the Committee would rather have a repetition of the most relevant information from previous reports, the Government would be happy to provide it.

47. Mrs. GWANMESSIA (Cameroon) said that some members had asked about the law governing the election of municipal councillors, which stated that communes

with more than 200,000 inhabitants should have 60 councillors, while communes with fewer than 40,000 inhabitants should have 20 councillors. It had been suggested that such an arrangement was unfair, because one councillor represented far more people in a densely populated commune than in a sparsely populated one. The Government considered, however, that the arrangement allowed it to pay special attention to the interests of people living in remote and sparsely populated areas. If the same proportion of councillors to inhabitants was maintained in more densely populated areas, every municipal council would have over 100 members, a system which would be completely unworkable.

48. Mr. Wolfrum had asked about education for refugees living in Cameroon and measures to integrate them into Cameroonian society. She had no data at present, but the question would be fully covered in the next report. Mr. Wolfrum had also asked for information on the ethnic composition of the population of Cameroon, but she was unfortunately unable to give a detailed answer because the 1986 census results were not yet available.

49. Mr. Wolfrum had asked whether the cultural heritage of ethnic minority groups had been preserved. The Ministry of Information and Culture had offices all over the country which arranged all kinds of cultural activities, publicizing the art, poetry and song of all ethnic groups. The Ministry of Tourism, established in 1989, also worked to preserve popular culture.

50. Mr. de Gouttes had asked about restrictions on the freedom of the press. As she had already said, there had been recent dramatic changes in that area, which would be fully described in the next report.

51. She was sorry that Mr. Banton was disappointed by Cameroon's periodic report, and hoped that it had contained at least some information which was of use to the Committee. Mr. Banton had referred to the possibility of a person being recruited or dismissed purely on the grounds of race. It was, however, very difficult to prove such a case, since employers commonly found some plausible excuse for dismissing an employee, even if the real reason was the employee's race. The Government had tried to establish a balance between the various ethnic groups and provinces in the country by means of its much-maligned planning system. For instance, if the medical school needed an intake of 60 students, it would be unsatisfactory to select them all from the same province. Accordingly, under the planning system, the examiners would take the top six candidates from each of the 10 provinces.

52. The CHAIRMAN said that Ms. Boum seemed to have the impression that the Committee wished States parties to recapitulate the previous periodic reports when submitting updated information. On the contrary, it was assumed that members of the Committee would, when considering a report, be familiar with the documentation previously submitted by the State party concerned. Since such material was often voluminous and the time available to the Committee restricted, it would be counter-productive to go over material which had already been considered.

53. He thanked the representatives of Cameroon for their valuable contributions, from which it was evident that Cameroon was making every effort to cooperate with the Committee in a constructive dialogue. The Committee had thus concluded its consideration of the eighth and ninth periodic reports of Cameroon (CERD/C/171/Add.1).

Mrs. Gwanmessia and Ms. Boum (Cameroon) withdrew.

Seventh, eighth and ninth periodic reports of Haiti (CERD/C/147/Add.2 and CERD/C/195/Add.1) (concluded*)

54. Mr. YUTZIS said that he, like other members of the Committee, regretted the absence of Haitian representatives during the consideration of Haiti's periodic reports of the current session. However, he was aware of the country's perilous economic situation and could appreciate the point that it would have been easier for Haitian representatives to attend had the session been held in New York.

55. Mr. Foighel had, he thought, been somewhat unfair in his interpretation of paragraph 16 of the seventh report (CERD/C/147/Add.2) in that he had asked why the Government had found it necessary to introduce legislation to establish safeguards against any attempt at racial discrimination if such discrimination did not in fact exist in Haiti. On the contrary, the initiative was welcome even if there was only a remote possibility that racist organizations might emerge, and it should not prompt the conclusion that the Government was being less than candid in its claims. The legislation would be helpful in enabling the Committee to assess Haiti's progress in implementing article 4 of the Convention.

56. The CHAIRMAN said that the Committee had concluded its consideration of the seventh, eighth and ninth periodic reports of Haiti (CERD/C/147/Add.2 and CERD/C/195/Add.1). He added that the Committee had concluded its consideration of item 7 of the agenda.

AGENDA ITEM 5

Action by the General Assembly at its forty-fourth session:

(a) Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention

57. Mr. BANTON (Rapporteur) said that, because of the special circumstances in which the Committee's annual report had been considered the previous year, only a brief mention of the item under consideration was necessary in the report of the current session. He thought it worthwhile to mention that, during the forty-fourth session of the General Assembly, the report of the

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* Resumed from the 879th meeting.

Committee had been considered jointly with two other matters concerned with human rights, namely the implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination and an item on self-determination and decolonization. Approximately half of the speakers participating in the discussion had actually referred to the activities of the Committee, mostly in connection with the obligation of States parties to overcome the Committee's financial difficulties.

58. Mr. HOUSHMAND (Representative of the Secretary-General) said that he wished to reply to some of the questions raised by Mr. de Gouttes at the 867th meeting (para. 65) with regard to the Committee's funding and, in particular, the modalities of establishing the contingency reserve fund proposed at the most recent session of the Commission on Human Rights. He had asked, firstly, whether an updated list could be made available to the Committee of States parties whose contributions under article 8, paragraph 6, of the Convention were still outstanding. A request to that effect had been forwarded to United Nations Headquarters and he hoped that the new list would be circulated in the near future and could be appended to the Committee's report in the form of an annex.

59. Mr. de Gouttes' second question concerned the scale of the proposed contingency reserve fund. The relevant resolution of the Commission on Human Rights (resolution 1990/25) clearly indicated that the reserve fund should be sufficient to finance up to two sessions of the Committee in any given year, the arrangement being that any surplus funds resulting from over-assessments that were available at the end of a year could be used, with the agreement of the States parties concerned, to finance one or two sessions in the following year, the aim being to ensure greater regularity in the arrangements for the Committee's meetings. In answer to Mr. de Gouttes' question regarding the relationship between the contingency reserve fund and the voluntary fund established by the General Assembly for the Second Decade to Combat Racism and Racial Discrimination, it should be pointed out that the latter fund could be utilized only for the activities relating to the programme of the Decade, and not for financing sessions of the Committee.

60. Mr. de Gouttes had also asked whether the Commission's proposal for the establishment of the contingency reserve fund was in conformity with the Committee's own recommendation in its decision I (XXXVII). In his view, there was no incompatibility between the two proposals, since that recommendation had also requested the General Assembly to authorize the Secretary-General to ensure, on a temporary basis, the financing of the expenses of the members of the Committee from the United Nations regular budget, until such time as a permanent solution to the financial difficulties impeding the functioning of that Committee was found. The aim of the Commission's proposal was to rectify the situation which had arisen when the Committee's recommendation had not been adopted by the General Assembly.

61. Finally, Mr. de Gouttes had asked what prevented the General Assembly from funding the Committee's sessions on a temporary basis. He was unable to give specific reasons why the General Assembly had not chosen to do so, but pointed out that the decisions of the Third Committee, which was responsible

for consideration of the Committee's report, were normally taken on the basis of draft resolutions put forward by Member States after negotiations between delegations, the objective being to arrive at a consensus text which would eliminate the need for a vote. It seemed that no such consensus had emerged on the Committee's recommendation, and it must therefore be concluded that the time was not yet ripe to envisage the funding of the Committee's sessions from the regular budget of the United Nations.

The meeting rose at 6 p.m.

Note

1/ General Assembly resolution 34/180, annex.

882nd meeting (second part) Monday, 20 August 1990 at 11.30 a.m.

Chairman: Mr. SHAHI

In the absence of the Chairman, Mr. Vidas, Vice-Chairman took the chair.

AGENDA ITEM 5

Action by the General Assembly at its forty-fourth session (concluded)

(b) Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights (General Assembly resolution 44/135);

1. The CHAIRMAN invited Mr. Banton to present documents A/44/668 and A/44/539 to the Committee.

2. Mr. BANTON proposed that the Committee should give a general endorsement to the note by the Secretary-General (A/44/668) and the report of the Secretary-General (A/44/539), while making specific observations on particular points of special interest to it.

3. The problem of the total volume of annual reports that States parties to the various human rights treaties were required to submit was clearly indicated in the note by the Secretary-General which observed that the total volume "could easily reach 1,000 pages at some point during the 1990s" (A/44/668, p. 15, para. 20). The task was thus colossal, particularly for States with limited resources, and it was vital for the Committee to appreciate that fact. On a related subject, he stressed the importance of the statement in the same document concerning States that reported to several different bodies on the same issue as a result of overlapping in the competences of such bodies (ibid., p. 5, para. 6). On several occasions the Committee had found itself in such a situation, particularly during the current session, and extreme caution was necessary to ensure the debate was not diverted and to focus the Committee's attention on matters strictly within its competence, i.e. racial discrimination.

4. The "draft consolidated guidelines for the initial part of the reports of States parties" (A/44/539, annex) was extremely valuable, although countries would have to be advised of the need to provide concise information: where certain States were concerned, it would be possible to write whole volumes under the suggested headings: "Land and people", "General political structure", etc. With regard to the financing arrangements for treaty bodies (A/44/668, pp. 5-6, paras. 8-14), no special remarks were necessary apart from the need to emphasize the adjective "effective" in the sentence "the effective functioning of the treaty bodies must be assured" (ibid., para. 11).

5. Paragraph 82 (ibid., p. 35) was important as it brought out the avant-garde role played by the International Convention on the Elimination of

All Forms of Racial Discrimination in defending human rights. The paragraph noted that some authorities characterized the prohibition against racial discrimination as a peremptory norm (jus cogens) from which no derogation was permissible. With regard to reservations expressed by States parties about the referral of disputes over the interpretation or application of the Convention to the International Court of Justice (A/44/668, p. 5, para. 13), he felt that the Committee could invoke article 9 of the Convention in order to request States to withdraw their reservations.

6. Mr. WOLFRUM, supported by Mr. RESHETOV and Mr. de GOUTTES, thought that extreme caution was necessary regarding the peremptory nature of norms prohibiting racial discrimination, which not all jurists or States were prepared to accept as jus cogens within the meaning of article 53 of the Vienna Convention on the Law of Treaties. 1/

7. Mr. BANTON said, in respect of the statement made in the note by the Secretary-General to the effect that some members of the Committee had been unable fully to perform their functions because of a lack of adequate honoraria (A/44/668, p. 6, para. 16). Such was, in particular, the case of those who had retired and were thus unable to avail themselves of secretarial services. For that reason he welcomed the statement.

8. It was suggested that the committees should "consider encouraging the recording of more clearly focused concluding observations by individual experts" (ibid., p. 6, para. 19). In his view such a practice was hardly feasible, at least under current circumstances, because of a lack of time and resources. Furthermore, the Committee had always endeavoured to speak with a single voice. Lastly, to attempt to place the individual views of experts on record would complicate the Secretariat's task considerably.

9. The summary of conclusions and recommendations (ibid., p. 7, para. 22) contained a reference to paragraph 134 (ibid., p. 52), in which criticism was levelled at the presentation of annual reports drafted in a style that was "dreadfully dull," and whose "phraseology is intentionally circumlocutory". In his view, if the phraseology was circumlocutory, there was a good reason for it as the reports were required to reflect the views of the Committee as a whole, whose decisions were taken by consensus. In respect of priorities (ibid., p. 7, para. 25) it would be advisable to adopt the proposal made by the Secretary-General (ibid., p. 59, para. 151) and to emphasize, throughout the Second Decade to Combat Racism and Racial Discrimination, the universal nature of the task ahead.

10. The CHAIRMAN said that the views expressed by Mr. Banton and by the members of the Committee would be reflected in the Committee's report.

Mr. Shahi took the Chair.

AGENDA ITEM 10

Second decade to combat racism and racial discrimination (continued*)

11. Mr. BANTON said that it was important to update the study entitled Committee on the Elimination of Racial Discrimination and the progress made towards the achievement of the objectives of the International Convention on the Elimination of All Forms of Racial Discrimination, 2/ published on the occasion of the World Conference to Combat Racism and Racial Discrimination and to define the major lines of the Committee's future activities. In that respect, he recalled the recent suggestion for holding a joint meeting between the Committee and the Sub-Commission on Prevention of Discrimination and Protection of Minorities during the Committee's August 1991 session. The Convention should be the centre-piece of the struggle against racism and racial discrimination and he hoped that the study, once it had been revised, would also be distributed to the members of the Sub-Commission and could thus provide a basis for discussions between the two bodies.

12. A number of general questions still had to be discussed, including that of the criteria used to define and identify a minority and the question of the root causes of racial discrimination. While much was said about the means of combating racial discrimination, thought was rarely directed to the origins of the phenomenon.

13. Mr. WOLFRUM endorsed Mr. Banton's observations and added that, in his view, the link between civil and political rights and the prohibition of racial discrimination was of fundamental importance to the Committee's work.

14. Mr. RESHETOV expressed his conviction that the problems faced by the Committee, including that of its financing, were linked to the lack of knowledge of its work among the general public. Accordingly, he endorsed the idea of a joint meeting with the Sub-Commission and felt that consideration should be given to the appointment of a special rapporteur for the Committee in order to improve the dialogue with Governments and to develop public awareness of its work. He also suggested preparing a document to provide an assessment of the situation of national minorities and of legislation against racial discrimination in all countries.

15. The CHAIRMAN took it that the members of the Committee approved the convening of a joint meeting of the two bodies within the framework of the Second Decade to Combat Racism and Racial Discrimination.

16. Mr. HOUSHMAND (Representative of the Secretary-General) said that the Sub-Commission took a keen interest in the Committee's work and that it too had recently considered the possibility of a joint meeting, whose organization would be entrusted to the Secretariat.

17. The CHAIRMAN announced that a joint meeting between the Committee and the Sub-Commission would be held during the Committee's August 1991 session.

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* Resumed from the 867th meeting.

18. Mr. WOLFRUM observed that invitations should be sent to the members of the Sub-Commission alone and not to representatives of non-governmental organizations.

19. Mr. BANTON confirmed that priority should be given to invitations to members of the Sub-Commission and that any other participants in the work of the Sub-Commission who wished to attend the meeting should be able to do so as observers.

20. Mr. GARVALOV felt that it was preferable for the meeting - the first of its kind - to be attended only by the members of the Committee and the members of the Sub-Commission.

21. Mr. RESHETOV suggested that representatives of non-governmental organizations should also be invited to the first meeting, without being allowed to take the floor.

22. Mrs. SADIQ ALI and Mr. de GOUTTES endorsed Mr. Reshetov's proposal, and the latter specified that there was nothing to prevent the Committee and the Sub-Commission from deciding, by mutual agreement, to allow observers and representatives of non-governmental organizations to take the floor at other joint meetings that might subsequently be organized.

23. Mr. BANTON said that it was above all necessary to agree on the purpose of the meeting.

24. The CHAIRMAN said that, as he understood it, the purpose of the meeting would be to consider the compilation of legislation currently in force in different countries, together with the draft standard legislation on the elimination of racial discrimination.

25. Mr. HOUSHMAND (Representative of the Secretary-General) said that those two documents might not be ready by August 1991 and that, in his opinion the joint meeting should be devoted to an exchange of views on general issues of interest both to the Committee and to the Sub-Commission.

26. Mr. SHERIFIS, Mr. AHMADU and Mrs. SADIQ ALI endorsed that opinion.

27. Mr. WOLFRUM said that, if the meeting were limited to general matters, it would need to be carefully prepared, as the Committee's time was valuable.

28. Mr. BANTON opposed the organization of a general debate that would inevitably be prone to verbosity.

29. The CHAIRMAN asked the members of the Committee whether they had any specific topics to propose.

30. Mr. WOLFRUM thought that the meeting could focus on the definition of ethnic groups, conflicts of law and, possibly, the issue of the treatment given to non-nationals.

31. Mr. RESHETOV said that the meeting's agenda should be broad enough to avoid excluding any major issues. Failure to discuss the compilation of national legislation and the draft standard legislation would be a serious mistake.

32. Mr. GARVALOV thought that, on the contrary, the agenda should be as short as possible.

33. Mr. VIDAS said that it would be wrong to expect too much from the first joint meeting as it would be in the nature of an exploratory meeting. He suggested that the Committee should entrust its Chairman with settling the details.

34. The CHAIRMAN said that, if the members of the Committee had no objection, he would settle the organization and agenda of the joint meeting with the Chairman of the Sub-Commission, taking into account the members' remarks. The meeting, which should not last more than one day, would be convened by the Secretary-General.

It was so decided.

35. The CHAIRMAN said that the other matters raised by Mr. Banton would be considered at the following meeting.

The meeting rose at 1 p.m.

Notes

1/ United Nations, Treaty Series, vol. 1155, p. 331.

2/ United Nations publication, Sales No. E.79.XIV.4.

883rd meeting

Monday, 20 August 1990
at 3.15 p.m.

Chairman: Mr. SHAHI

AGENDA ITEM 10

Second Decade to Combat Racism and Racial Discrimination (concluded)

1. The CHAIRMAN suggested that the Committee should proceed with its second reading of the revised and updated version of its study entitled Committee on the Elimination of Racial Discrimination and the progress made towards the achievement of the objectives of the International Convention on the Elimination of All Forms of Racial Discrimination, 1/ initially prepared on the occasion of the World Conference for Action to Combat Racism and Racial Discrimination in 1978. He invited Mr. Banton, who had compiled and collated the final proposals, to introduce them.

2. Mr. BANTON reminded the Committee that work on revising the study had been completed at the previous session, but that some paragraphs remained to be finalized.

Paragraph 27

3. Mr. BANTON said that the revised version of paragraph 27 now read:

> "The procedure envisaged in article 14 of the Convention entered into force on 3 December 1982 when the tenth State party made the declaration recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of violations by that State party of any of the rights set forth in the Convention. As at 1 December 1989 14 States parties have made declarations under article 14."

4. He thought that the wording "entered into force" was preferable to "became effective", since it was the wording used in the Yearbook on Human Rights for 1983 2/ on page 189 of the English version.

Paragraph 28

5. Mr. BANTON said that paragraph 28 would now have the following wording:

> "The Committee at its 646th meeting (twenty-eighth session), on 26 July 1983, adopted its rules of procedure (rules 80 to 97) for considering communications from individuals or groups of individuals submitted under article 14 of the Convention."

Paragraph 29

6. Mr. BANTON read out the following revised version of paragraph 29:

> "The first communication under article 14 of the Convention was received by the Committee at its thirtieth session (1984). At its

thirty-second session (1985), the Committee established a working group for the purpose of making recommendations to the Committee regarding the fulfilment of the conditions of admissibility of the communication. At its thirty-fourth session (1987), the Committee took its decision declaring the communication admissible under article 14 of the Convention. At its thirty-sixth session, on 10 August 1988, the Committee adopted its opinion, suggestion and recommendations on the first communication placed before it."

7. The CHAIRMAN said he took it that the Committee agreed to the revised versions of paragraphs 27, 28 and 29, as read out by Mr. Banton.

It was so agreed.

Paragraph 48

8. Mr. BANTON suggested that the word "Provisional" should be deleted before "Rules of Procedure".

It was so agreed.

New paragraph 75A

9. Mr. BANTON said that the proposed new paragraph 75A incorporated the changes agreed at the thirty-seventh session (855th meeting), and would have the following wording:

"The United Nations General Assembly in 1973 instituted the Decade for Action to Combat Racism and Racial Discrimination, followed in 1983 by the Second Decade. As part of this programme, it has organized a First and Second World Conference to Combat Racism and Racial Discrimination and has held a series of seminars. As contributions to the Decades, the Committee has nominated members to represent it at these conferences and seminars, and in addition to the 1978 version of the present document, it also published the following studies:

Positive measures designed to eradicate all incitement to, or acts of, racial discrimination - Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination - Article 4 (CERD/2) and Teaching, education, culture and information as means of eliminating racial discrimination - Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination - Article 7 (CERD/3)."

Paragraph 80

10. Mr. BANTON said it emerged from the Secretariat's updated figures that the Committee had devoted 334, or less than half, of its 861 meetings during the period 1970-1989 to consideration of matters relating to article 9 of the

Convention. According to his calculations, 57 per cent of its sessions had been devoted to consideration of reports under article 9 between 1970 and 1977, but over the entire period 1970-1989 the proportion had been only 38 per cent.

11. Mr. WOLFRUM said that the discrepancy was no doubt due to what was understood by the term "consideration" of reports under article 9. If it covered only the direct dialogue in the Committee with representatives of reporting countries and excluded the Committee's deliberations on its own report to the General Assembly, the estimated time spent on periodic reports would be less. He accordingly suggested that the words "consideration of reports" should be changed to "examination of reports".

12. Mr. GARVALOV said that, in view of the downward trend in the amount of time devoted to reports under article 9, the paragraph ought not to state that the Committee had been "preoccupied with those tasks".

13. Mr. BANTON proposed that "preoccupied with" should be replaced by "engaged in". It should be pointed out that the Committee's procedure for examining reports had been streamlined in the past few years, which would partly explain why less time had recently been spent on reports.

14. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to adopt the paragraph with the amendments proposed by Mr. Wolfrum and Mr. Banton.

It was so agreed.

Paragraph 81

15. Mr. BANTON said that the revised version of paragraph 81 now read:

> "During that period, 856 reports (consisting of 784 'periodic reports' and 72 'supplementary reports') were received and 810 reports were considered by the Committee: the remaining 46 reports had been received by the Secretary-General before the closing date of the thirty-seventh session, but because of the backlog of pending reports due to the disruption of the work of the Committee as a result of failure by a number of States parties to meet their financial obligations under the Convention, could not be considered."

16. In his view, the latter part of the sentence was too long, and he proposed that it should be amended to read: "... the closing date of the thirty-seventh session, but could not be considered because of the backlog of pending reports. This backlog was due to the disruption of the work of the Committee as a result of failure by a number of States parties to meet their financial obligations under the Convention."

It was so decided.

Paragraph 84

17. Mr. BANTON said that the following figures were to be added to the table in the paragraph:

	Reminders
1978	62
1979	100
1980	161
1981	191
1982	247
1983	202
1984	233
1985	340
1987	553
1988	567
1989	543.

Paragraph 84, as amended, was adopted.

Paragraph 85

18. Mr. BANTON said that paragraph 85 now had the following wording:

"The following details may reveal the extent to which some States parties have neglected their reporting obligations: the Committee has sent 52 reminders to each of two States parties, nevertheless, the initial to the sixth periodic reports of those States had not been received by the end of the thirty-seventh session. To one State party 73 reminders had been sent, and the fourth to tenth periodic reports of that State have not yet been received. Another State party was sent 31 reminders and yet the second to the sixth periodic reports of that State have not been submitted. Another State party was sent 25 reminders and its third to seventh periodic reports have not yet been submitted. Full particulars on the situation relating to these States parties - and others, to which fewer reminders were sent - have been included in the successive annual reports of the Committee."

19. Mr. GARVALOV suggested that the first sentence should be divided into two sentences, the second beginning with the word "Nevertheless".

It was so agreed.

Paragraph 85, as amended, was adopted.

Paragraphs 88 and 89

20. Mr. BANTON said that the revised wording of paragraphs 88 and 89 was as follows:

"88. At its twenty-fifth session, the Committee authorized its Chairman to address personal letters to the Governments of three States parties,

which had not submitted any report at all since the entry into force of the Convention in respect of those States, requesting them to submit their overdue reports in one consolidated document by 30 June 1982 for consideration by the Committee at its twenty-sixth session (A/37/18, paragraph 45 (b)). At the same session, the Committee adopted its General Recommendation VI (decision 1 (XXV)) (CERD/C/94) in which it invited the General Assembly to take note of the situation and to use its authority in order to ensure that the Committee could more effectively fulfil its obligations under the Convention. By the closing date of the thirty-seventh session (1989) of the Committee, no report had been received from two of those States parties. At its thirty-first session, the Chairman informed the Committee that, in accordance with the decision taken by officers of the Committee on 4 March 1985, he had met the representatives of four States parties, whose periodic reports had been overdue for a period of from seven to nine years, and requested them to draw their Governments' attention to the Committee's concern that they were so far behind in submitting their reports even though over 12, and in some cases 16, reminders had been sent to them (A/40/18, para. 43). By the closing date of the thirty-seventh session of the Committee, no report had been received from three of those States parties, despite the fact that over 50 reminders had been sent."

"89. At its thirty-sixth session, the Committee decided to endorse the proposal made at the eleventh (emergency) meeting of States parties to the Convention in respect of the periodicity of reporting under article 9, paragraph 2, of the Convention. It agreed as a general practice that, after the submission of initial comprehensive reports to the Committee, States parties would submit further comprehensive reports on every second occasion thereafter, when reports were due, i.e. every four years, and that they would submit brief updating reports on each intervening occasion when reports were due under the Convention (A/43/18, para. 24 (c))."

Revised paragraphs 88 and 89 were adopted.

Paragraph 99

21. Mr. BANTON suggested that the reference to the Committee's first eight years should be deleted, so that the paragraph would read:

"The problem of incompleteness of the information contained in reports of States parties has challenged the Committee since its first session. The Committee has resorted to a number of procedures to deal correctively with it."

Paragraph 99, as amended, was adopted.

New paragraph 108A

22. Mr. BANTON, recalling that the Committee had adopted a new paragraph 108A at its thirty-seventh session (856th meeting), said that the final text of that paragraph would be as follows:

"In 1979 the Committee clarified the procedure envisaged by this new rule by adopting decision 1 (XIX) as follows:

"'When adopting a decision concerning information supplied by a State party to the International Convention on the Elimination of All Forms of Racial Discrimination relating to conditions in its territory, it will follow the procedure of asking the representative of the State party concerned to withdraw from the Committee table as soon as consideration of the report has been completed; the representative may, if he wishes, be present when the Committee's decision is announced.'"

23. That formulation left open the possibility that the Committee might choose to go into a private session before announcing that decision.

The proposed new paragraph 108A was adopted.

New paragraph 129A (new section H)

24. Mr. BANTON proposed that the following new text should be inserted after paragraph 129:

"H. Reports by States parties responsible for dependent territories

"States parties which administer dependent territories are responsible for the implementation of the Convention in those territories and should report on this under article 9. If, as has happened (CERD/C/SR.77-78 and CERD/C/SR.32-33), the Committee considers information about such territories under article 15, it is limited by article 15, paragraph 2 (b), to reports received from the competent bodies of the United Nations. The representative of the reporting State is then denied the opportunity to speak on this section of the report and to answer any questions at the time they are asked."

25. If that proposal were accepted, existing sections H, I, J should accordingly be changed to I, J, K.

The proposed new paragraph 129A (new section H) was adopted and the following subparagraphs renumbered accordingly.

New paragraph 150A

26. Mr. BANTON proposed that in the new paragraph approved at the 857th meeting the word "country" should be inserted before "rapporteurs" in the first sentence, in accordance with the wording used in the Committee's most recent report to the General Assembly.

The proposed amendment was adopted.

Paragraph 156

27. Mr. BANTON proposed that, in the first sentence of the paragraph, the words "during its first eight years of existence" should be deleted.

It was so decided.

Proposed new paragraph 179A

28. Mr. BANTON proposed the following new paragraph 179A to be inserted at the end of section B:

"At subsequent sessions these requests were repeated, to no effect. So at its thirty-seventh session the Committee made no observations upon the particular territories but simply reported:

'The Committee once again finds it impossible to fulfil its functions under article 15, paragraph 2 (a), of the Convention, due to the total absence of any copies of petitions as provided therein. The Committee has studied the material furnished under article 15, paragraph 2 (b), and found that there was no valid information concerning legislative, judicial, administrative or other measures directly related to the principles and objectives of the Convention and, therefore, is unable to express any opinion and make any recommendation concerning the above-mentioned territories. The Committee therefore reiterates its request that it be furnished with the material expressly referred to in article 15 of the Convention to enable it to fulfil its functions.'"

The proposed new paragraph 179A was adopted.

New paragraph 199A

29. Mr. BANTON said that new paragraph 199A, which incorporated some minor changes in the text adopted at the 857th meeting, would now read:

"Article 10 (3) declares that the secretariat of the Committee shall be provided by the Secretary-General of the United Nations. Article 8 (6) declares that States parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties. This dual system of financing establishes the special responsibilities of the States parties which have chosen to ratify the Convention. Their contributions are assessed according to a United Nations scale which takes account of differences in national wealth. Some States have failed to pay their assessments. Many of those who have failed have also been States which have not met their reporting obligations. Up to the end of 1985, the Secretary-General made good from United Nations funds the shortfall in the Committee's income so that it could continue to meet twice a year for three-week sessions. From 1986 onwards the Secretary-General was not prepared to continue doing so. As a result the session which would normally have been held in August 1986 was cancelled, and the August 1988 session reduced to two weeks. Appeals

to the States parties and to the Secretary-General resulted in the reduction of arrears of payment but not enough to prevent the cancellation of the March 1988 and the reduction to one week of the August 1987 session. At that session the Committee took a decision asking the General Assembly to note the relatively low cost of enabling the Committee to continue its work and to authorize the Secretary-General, on a temporary basis, to ensure the financing due under article 8 (6). The same decision was repeated."

30. In order to take account of recent developments, he suggested that the following text should be added at the end of that paragraph:

"In 1989 the March session was again cancelled but a four-week session was possible in August; the Committee then adopted a decision expressing concern that the action of the General Assembly at its forty-third session had not had the desired effect and repeated its recommendation that the Secretary-General make good the shortfall."

31. Mr. GARVALOV said that he agreed with the proposed new paragraph, but suggested that the sentence "Some States have failed to pay their assessments" should be amended to read "A disturbing number of States have failed to pay their assessments".

The new paragraph 199A, with the amendment proposed by Mr. Garvalov, was adopted.

Paragraph 200

32. Mr. BANTON proposed that in the first sentence of the text of paragraph 200 adopted at the Committee's 857th meeting, the number "128" should be replaced by "129" and the words "or acceded to' should be inserted after "ratified".

It was so decided.

Paragraph 201

33. Mr. BANTON referring to the revised version of paragraph 201 adopted at the Committee's 857th meeting, proposed that the following footnote (footnote 8) should be inserted after "article 4 (a) and (b) of the Convention": "See Committee on the Elimination of Racial Discrimination, Positive Measures designed to eradicate all incitement to, or acts of, racial discrimination - Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination - Article 4 (CERD/2), United Nations publication, Sales No. E.85.XIV.2." He also proposed that after (g) "some" should be inserted before "States parties".

It was so decided.

New paragraphs 203A1 and 203A2

34. Mr. BANTON said that the text of proposed new paragraph 203A as approved by the Committee, was given in the summary record of the 857th meeting of the

Committee, but that in the last line the date 1985 should be amended to read 1965. He suggested that that paragraph should be provisionally numbered 203A2 and should be preceded by a paragraph 203A1 with the following wording:

> "The Committee is pleased to record that article 14 of the Convention entered into force on 3 December 1982 following the deposit with the Secretary-General of the tenth declaration of the competence of the Committee to receive and consider communications from individuals or groups of individuals. During the thirty-sixth session the Committee adopted a decision on the first such communication (A/43/18, annex IV)."

Proposed new paragraphs 203A1 and 203A2 were adopted.

New paragraph 203B

35. Mr. BANTON proposed a new paragraph 203B as the first paragraph in section D entitled "Hopes for the future". The text, which was based on the version proposed at the Committee's previous session and on the ensuing discussion (CERD/C/SR.857), would have the following wording:

> "The second phase in human rights legislation has to be that of implementing the standards set in the first phase. Some States are understandably preoccupied with major problems of national security, subsistence, development (including external debt), internal conflict, and the like. It is nevertheless hoped that all States will, by their dialogue with the Committee, come to give higher priority to the prevention of racial discrimination than they might otherwise have done."

The final version of the new paragraph 203B was adopted.

Revised paragraph 205

36. Mr. BANTON said that the Committee had adopted paragraph 205 at the last session with amendments, but that it had subsequently been agreed that subparagraphs (a), (b) and (c) should form separate paragraphs provisionally numbered 205, 205A and 205B.

37. He proposed that the first part of paragraph 205B ("Finally ... recognizing thereby") should be replaced by the following text:

> "Finally, the Committee expressed the hope that States parties which have not yet done so will express their opposition to racial discrimination by making the declaration envisaged in article 14, paragraph 1, of the Convention. This will enable the Committee to contribute more widely to implementation of the standards embodied in the Convention. Such a declaration recognizes ..."

The rest of the paragraph would remain unchanged.

Revised paragraph 205 was adopted.

Paragraph 206

38. Mr. BANTON proposed that paragraph 206 should be amended to read:

"It is the earnest hope of the Committee that States which have not yet ratified or acceded to the Convention will soon join the ranks of those which have done this, in order to energize and give greater effectiveness to the world-wide campaign against the evils of racial discrimination. The Committee also hopes that those States which have not yet ratified, or acceded to, the Convention will apply the Convention in their territories and make its norms the established norms of their national life, and its objectives their own standards of achievement."

Paragraph 206, as amended, was adopted.

New paragraph 207

39. Mr. BANTON said that, since paragraph 207 was the Committee's concluding statement in the main body of the document, it should be forcefully worded. He suggested the following text:

"It should be recalled that adherence to the Convention gives legal sanction to a prior commitment to combat racial discrimination made by all Member States of the United Nations under the Charter. The Committee's appeal for universal ratification has already been made by the General Assembly in successive resolutions over the years. Progress has been encouraging but the problems have not diminished. Recent years have seen many conflicts engendered or exacerbated by racial and ethnic prejudices of the kind that lead to discrimination as defined in the Convention. Millions have died. More have had their lives ruined. It is therefore vital that the international community should give even greater support to the struggle for the elimination of racial discrimination."

New paragraph 207 was adopted.

40. Mr. BANTON, referring to the revised document as a whole, said that it might be easier to identify if its title were changed. He suggested three possible titles, namely: "Eliminating Racial Discrimination" with the subtitle "A report by the Committee on the Elimination of Racial Discrimination on progress towards the achievement of the objectives of the International Convention"; "Progress Report by the Committee on the Elimination of Racial Discrimination"; or "The First Twenty Years" followed by a longer subtitle.

41. Mrs. SADIQ ALI suggested that Mr. Banton's second and third proposals might be amalgamated in the title "The First Twenty Years: Progress Report by the Committee on the Elimination of Racial Discrimination".

It was so agreed.

42. Mr. BANTON, referring to his letter to the Secretary of the Committee of 16 March 1990, reminded the Committee that it had been agreed that a bibliography and other documentation should be included as additional annexes.

43. The CHAIRMAN, thanking Mr. Banton for his valuable contribution, said that the Committee had completed its second reading of the text of the study entitled "The First Twenty Years: Progress Report by the Committee on the Elimination of Racial Discrimination", and that he would take it that the Committee wished to adopt the document as a whole.

It was so decided.

44. The CHAIRMAN said that the Committee would resume consideration of the draft text circulated by the Rapporteur regarding activities in connection with the Second Decade to Combat Racism and Racial Discrimination. He reminded the Committee that the General Assembly at its forty-fourth session had considered the Committee's report in conjunction with the implementation of the Programme of Action for the Second Decade. Some of the questions raised in the draft text followed from the action taken by the General Assembly in that regard at the forty-fourth session, namely how best to utilize the information contained in the compilation of national laws against racial discrimination (A/44/574) and how best to communicate to States parties the Committee's experience of problems in the implementation of the Convention.

45. Mr. BANTON, Rapporteur, said that the draft text would be submitted for the Committee's approval when the time came for consideration of the Committee's report as a whole. He would be proposing the insertion of an additional sentence expressing the Committee's appreciation of the intention to prepare model legislation (ibid.). He wished to point out that the draft text was intended as a basis for the Committee's deliberations on proposed activities for the remainder of the Second Decade.

46. Mrs. SADIQ ALI, noting the reference in the draft text to the possibility of publishing fact sheets along the lines of those issued by the Centre for Human Rights, said she would like to know how often fact sheets could be published, bearing in mind the infrequency of the Committee's sessions.

47. The CHAIRMAN said that the fact sheets could draw on the abundant material accumulated by the Committee over the years in the course of its consideration of periodic reports.

48. Mr. HOUSHMAND (Representative of the Secretary-General) said that in the past two years the Centre for Human Rights had issued fact sheets on subjects of concern to the majority of member States but not necessarily at regular intervals. In preparing fact sheets for the Committee, the main problem would be to ensure that their content and form were acceptable to its members, and specific guidelines in that respect would be welcome. It would be possible initially to work on one or two such fact sheets in the areas of concern to the Committee.

49. Mr. BANTON, Rapporteur, said that the question was not pressing in that it could not be properly considered until the global compilation of national legislation against racial discrimination was available.

50. The CHAIRMAN said that he would take it that the Committee wished to defer any decision on the matter until the global compilation was available.

AGENDA ITEM 9

Consideration of copies of petitions, copies of reports and other information relating to trust and non-self-governing territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention (concluded*)

51. Mr. SHERIFIS said that pressure of work had made it impossible to convene the three working groups set up to consider the item. In view of the short time still available to the Committee, he suggested that further consideration of the item should be postponed until the next session.

52. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee took note of the document (CERD/C/200) and the pertinent information communicated to him in accordance with article 15 of the Convention and that consideration of the item would be postponed until the next session.

It was so decided.

Suggestions and general recommendations under article 9 of the Convention (continued*)

53. The CHAIRMAN said that the Committee had agreed that certain suggestions and general recommendations should be submitted to the General Assembly in accordance with article 9, paragraph 2, of the Convention. Mr. Wolfrum had taken the view that, since they were intended to be of a general nature, they should not relate to the reports of individual States. To that effect, Mr. Wolfrum had prepared four draft general recommendations for the Committee's consideration.

54. Mr. WOLFRUM read out the following text of a draft general recommendation concerning the interpretation and application of article 1, paragraphs 1 and 4, of the Convention:

"The Committee has considered reports from States parties containing information on how individuals are identified as being members of a particular racial or ethnic group,

"The Committee is of the opinion that such identification shall exclusively be based upon a respective self-identification of each individual concerned."

* Resumed from the 867th meeting.

55. Mrs. SADIQ ALI suggested that it might be preferable for the first paragraph of the text to read "... on how individuals are to be identified as being members of a particular racial or ethnic group".

56. Mr. GARVALOV said he would like to see the words "are to be" replaced by "may be". The words "are to be" implied a requirement, while "may be" left room for individual choice.

57. Mr. BANTON said, with regard to the first paragraph, that he preferred the wording: "The Committee has considered reports from States parties containing information on how individuals are identified as being members of particular racial or ethnic groups". The Committee should not exclude the possibility that an individual might belong to more than one group.

58. With regard to the second paragraph, he questioned the use of the word "exclusively" and preferred the words "should preferably". He saw no need to include the words "a respective".

59. He was suggesting the words "should preferably" because it was necessary to take into account the case of children. There was also the question of the age at which an individual had the right to self-identification. Members should think of the context in which the information was to be obtained. Over the years, States had said that it was against their policy to call attention to ethnicity in censuses. There might be a situation in which a State was reluctant to accept self-identification in a census and tried to obtain information by other methods. In his opinion, to use the word "exclusively" would be to place undue pressure on States.

60. Mr. WOLFRUM said that he agreed with the changes suggested by Mr. Banton for the first paragraph. The only problem concerned the changes suggested for the second paragraph. He agreed that the word "exclusively" should be deleted but thought that the expression "should preferably" was rather weak. He recalled that members who had spoken on the subject had felt strongly that the text should not be watered down more than necessary.

61. Mr. de GOUTTES thought that an exclusive criterion was always dangerous. In the case under consideration, someone might be assigned to a particular group indirectly. He agreed that the word "exclusively" should be deleted.

62. Mr. SONG Shuhua said that the scope of the part of the Convention under consideration was extremely broad. The proposed text was too precise and might pose problems for some countries, such as his own. For example, there were many cases where persons of Han ethnic origin might claim to belong to a minority in order to be able to obtain certain benefits. With regard to the use of the word "exclusively", he said that account must also be taken of language and culture.

63. Mr. RESHETOV thought that all members would be in favour of basing identification on an individual's expressed desire. However, that was not always possible and he would prefer Mr. Banton's suggestion. He considered that the text should not be too categorical.

64. Mr. YUTZIS said experience indicated that draft resolutions which were exhaustive in their formulation or left little margin for manoeuvre usually gave rise to problems. The main point was to achieve the greatest possible degree of consensus.

65. He understood that Mr. Wolfrum was seeking to provide a high level of protection for individuals, which was an appropriate goal. The main point was the need to defend the identification which the individual in question applied to himself. That was a basic criterion but it did not mean that it was the only one.

66. He suggested the following text which differed somewhat from those suggested by Mr. Wolfrum and by Mr. Banton: "The Committee is of the opinion that such identification should basically take into account what an individual feels himself to be".

67. Mr. RESHETOV suggested the use of wording similar to that used in the final document of the Conference on the Human Dimension of the Conference on Security and Cooperation in Europe 3/ and that the words "basically take into account what each individual feels himself to be" should be replaced by the words "take into account a person's individual choice".

68. Mr. YUTZIS thought that the expression "take into account" alone was too general and should be followed by the word "basically".

69. Mr. WOLFRUM suggested that Mr. Reshetov and he should hold consultations with a view to preparing a text for consideration by the Committee.

70. Mr. GARVALOV thought that Mr. Wolfrum and Mr. Reshetov should consider whether self-identification was a rule or an inherent right of the individual concerned.

71. Mr. BANTON supported by Mr. RESHETOV, said the introductory part of the recommendation should indicate clearly that it was intended to protect the individual against indirect discrimination.

72. Mr. YUTZIS said he did not think it necessary to take a decision on the recommendation at the present time. When the Committee was considering such texts, it was preferable for versions in the other working languages to be available.

73. The CHAIRMAN thought that the draft general recommendation proposed by Mr. Wolfrum needed to be carefully considered in order to determine whether it did not widen the scope of article 2, paragraph 1, of the Convention.

74. Mr. de GOUTTES said he had doubts about the legal criteria concerning indirect discrimination. The legal position should be made clearer.

75. He agreed with Mr. Yutzis that the absence of translations into the other working languages did not facilitate the Committee's work.

76. Mr. WOLFRUM said that he had not intended to enlarge the scope of article 2, paragraph 1, of the Convention in any way. The principle of indirect discrimination was acknowledged in the various types of model legislation which were being drawn up. As for the language question, the draft general recommendation was intended as a basis for discussion only, and he had drawn it up in the working language with which he was most familiar.

77. Mr. YUTZIS said that the Committee should not leave its decision on the draft general recommendation until the very end of the session, as so often happened in United Nations bodies. If no decision were to be taken on it at the current meeting, perhaps it would be best to postpone the debate until the Committee's next session, by which time the text would be available in all working languages.

78. Mr. RESHETOV agreed that it would be useful to have the draft general recommendation in all working languages. In his opinion, however, the practice of leaving decisions to the very end of a session applied mainly to governmental bodies, since it allowed time for consultation with Governments. It did not necessarily apply to the Committee.

79. Mr. YUTZIS said that he was quite willing to take a decision on the draft general recommendation at the current session if the other members so wished. He thought, himself, that the question was fundamental, but not urgent, and that it might be better to have the recommendation translated into all the working languages, so that it could be properly discussed at the next session.

80. Mr. SONG Shuhua said that he would certainly like to have the recommendation translated into Chinese.

81. Mr. WOLFRUM agreed that no hasty decisions should be taken on the draft general recommendations. Perhaps members should give their preliminary comments, which could then be incorporated into the recommendations before they were translated.

82. He then read out the text of a draft general recommendation concerning the interpretation and application of article 4:

> "Having considered reports submitted by States parties, the Committee notes that different views exist concerning the relationship between the prohibition of racial discrimination on the one hand and some civil rights, especially the right to freedom of opinion and expression as well as the right to freedom of peaceful assembly and association, on the other hand.
>
> "The Committee emphasizes that article 4, by obliging the States parties to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, racial discrimination having due regard to the principles of the Universal Declaration of Human Rights and the civil and political rights set forth in article 5, reflects the necessity to reconcile the prohibition of racial discrimination and the enjoyment of civil and political rights. By referring to the Universal Declaration of

Human Rights, article 4 indicates that such reconciliation may be achieved by making use of the principles laid down in article 29, paragraph 2, of the Universal Declaration of Human Rights."

83. Mr. RESHETOV asked why the draft general recommendation contained no reference to the International Covenant on Civil and Political Rights.

84. Mr. WOLFRUM agreed that it would be desirable to have some reference to the provisions of the International Covenant which covered the limitation of civil and political rights. However, since article 4 of the Convention referred only to the Universal Declaration of Human Rights, he had thought it wiser to do the same in his draft recommendation.

Suggestions and general recommendations under article 8 of the Convention

85. Mr. BANTON pointed out that Mr. Wolfrum's draft general recommendation on the application of article 8 was, arguably, the most important and might call for action at the current session. He therefore suggested that the Committee should take it up forthwith.

It was so agreed.

86. Mr. WOLFRUM read out the text of a draft general recommendation concerning the application of article 8:

"Having heard of an attempt, through diplomatic channels, to influence the work of a country rapporteur, the Committee recommends that States parties pay attention to article 8, paragraph 1, of the Convention, which establishes that members of the Committee on the Elimination of Racial Discrimination are experts of acknowledged impartiality who serve in their personal capacity."

87. Mr. WOLFRUM said that he had prepared the draft recommendation after hearing of an incident from another member of the Committee. He considered that the text was self-explanatory.

88. Mr. RESHETOV said that the Committee should adopt the draft recommendation, if possible at the current session. He was glad to say that the Government of his own country, the Soviet Union, no longer attempted to influence individuals who were members of United Nations expert committees.

89. In his view, while it was important for the Committee to have full details of the incident concerned, all reference to it should preferably be removed from the draft recommendation. It would be better to emphasize the independence of the Committee's members rather than to blame any one country for attempting to infringe that independence.

90. Mr. LECHUGA HEVIA said that he, personally, knew nothing about the incident in question. The recommendation should either merely reiterate the principle of impartiality, or give full details of the incident which had taken place.

91. Mr. de GOUTTES said that it must be possible to find some more diplomatic formula. He suggested a wording along the following lines:

"Anxious to avoid any influence by States parties on country rapporteurs, the Committee recommends ...".

92. Mr. VIDAS said that the Committee should not "recommend" that States parties pay attention to article 8, paragraph 1, of the Convention; it should "urge" them to do so, or merely draw their attention to the article.

93. The CHAIRMAN suggested the following wording: "The Committee, desirous of avoiding any influence by States parties on country rapporteurs, draws their attention to article 8, paragraph 1, of the Convention ...".

94. Mr. YUTZIS said that, while he could see the problems inherent in a reference to a specific State party, it was essential that the recommendation should be couched in forceful terms.

95. Mr. BANTON said that he felt very strongly that the original wording of the recommendation should be retained. There had been an attempt to exert pressure on one of the country rapporteurs the year before. After a tense meeting with the representative of the State party concerned, the Committee thought it had made it clear that such pressure was entirely unacceptable. However, an incident had since occurred which indicated that the lesson had not been learned. It was, therefore, absolutely essential that the recommendation should be drafted in the firmest possible terms if it were to have any effect at all.

96. Mr. RESHETOV agreed that, in that case, it was essential for the recommendation to be strongly worded. However, he was also concerned that members might be subject to pressure from individuals or groups, as well as from Governments. The recommendation should make it clear that the Committee condemned all attempts to influence it, whatever the source.

97. Mr. RHENAN SEGURA said that, the previous year, the Ambassador of a certain Latin American country had presented a report to the Committee, but had subsequently sent him a different report. He agreed with Mr. Banton that it was essential to make it clear that the Committee would not submit to any type of pressure, or influence.

98. Mr. LECHUGA HEVIA said that a strongly worded recommendation was clearly needed, but it was essential that all members of the Committee should know exactly what had happened in the incident in question.

The meeting was suspended at 5.40 p.m. and resumed at 5.55 p.m.

99. Mr. WOLFRUM suggested the following amendment to the draft general recommendation:

"Having learned of attempts, through diplomatic channels, to influence the work of a country rapporteur, the Committee urges that States parties as well as groups and individuals pay attention to article 8, paragraph 1, of the Convention, which establishes ...".

100. Mr. VIDAS said that he could not endorse the draft general recommendation because he, personally, knew nothing about the incident concerned. Apart from that, however, he had no objections to the amended wording.

101. The CHAIRMAN suggested that the Committee should postpone further consideration of the draft general recommendation until a later meeting.

It was so agreed.

The meeting rose at 6.05 p.m.

Notes

1/ United Nations publication, Sales No. E.79.XIV.4.

2/ United Nations publication, Sales No. E.88.XIV.7, p. 189.

3/ See International Legal Materials, vol. XXIX, No. 5, September 1990.

884th meeting

Tuesday, 21 August 1990
at 10.25 a.m.

Chairman: Mr. SHAHI

In the absence of the Chairman, Mr. Vidas, Vice-Chairman took the chair.

AGENDA ITEM 11

Meetings of the Committee in 1991 and 1992

1. Mr. HOUSHMAND (Representative of the Secretary-General) said that after consulting the heads of conference services, the secretariat was proposing that the Committee should hold its thirty-ninth session from 4 to 22 March 1991, its fortieth session from 5 to 23 August 1991, its forty-first session from 2 to 20 March 1992 and its forty-second session from 3 to 21 August 1992. All of those meetings would be held in Geneva. It should, however, be clearly understood that their timing and duration would depend not only on the decision of the General Assembly, but also on the amount of contributions paid by States parties under article 8, paragraph 6, of the International Convention on the Elimination of All Forms of Racial Discrimination. Things looked very promising, however, especially because the Commission on Human Rights had adopted on 27 February, resolution 1990/25 which contained a recommendation to set up a contingency reserve fund with the agreement of the States parties so that, if necessary, as many as two sessions of the Committee could be financed during the the same year.

2. Mr. de GOUTTES asked whether, in future, the Committee would always meet at Geneva or sometimes also at New York.

3. Mr. HOUSHMAND (Representative of the Secretary-General) said that, if no decision was made to the contrary by States parties or the General Assembly, the Committee's sessions would continue to be held at Geneva for reasons of economy.

4. Mr. BANTON said that, in any event, the Committee should in future hold two meetings on the first day of each session in order to save time.

5. Mr. SHERIFIS said that that matter really came under organization of work and that, if the Committee was to continue holding only one meeting on the first day, it would be better to do so in the afternoon, for reasons of convenience.

6. Mr. AHMADU agreed with that suggestion.

7. The CHAIRMAN suggested that the Committee should take note of the dates proposed for the 1991 and 1992 sessions, on the understanding that the secretariat would take into account the comments that had been made with respect to the organization of work.

It was so decided.

AGENDA ITEM 6

Submission of reports by States parties under article 9, paragraph 1, of the Convention

8. The CHAIRMAN drew the attention of members of the Committee to the Secretary-General's note (CERD/C/199) and to the list of reports for consideration at the thirty-ninth session, which had been distributed the day before.

9. Mr. HOUSHMAND (Representative of the Secretary-General) said that the note by the Secretary-General summed up the situation regarding submission of reports by States parties under article 9 of the Convention. Section A listed the reports that had been received by the Secretary-General, in the order in which they had arrived, and section B listed the reports still outstanding, classified according to the date initially set for their submission. Despite reminders by the Secretary-General, there were unfortunately still very many overdue reports and the secretariat was prepared to study any proposal which might help resolve that serious problem.

10. Mr. RHENAN SEGURA said that, the reason why some States had to be asked repeatedly to submit their reports was very often simply that they did not know how to go about drafting them. It would be helpful if the secretariat could facilitate their task by giving them more specific guidelines on how to proceed and on the questions to be dealt with.

11. Mr. BANTON associated himself with Mr. Rhenan Segura's view and said that it would be helpful if, as suggested at the preceding meeting, a model could be provided for the submission of periodic reports. Furthermore, he did not see why States parties elected a bureau only for the duration of their meetings. He asked whether they could not extend the bureau's mandate so that, between meetings, it could ensure that States parties honoured their obligations, especially in respect of the submission of reports.

12. Mr. AHMADU said it was unfortunate that many countries in Africa submitted their periodic reports late, because it placed them in an embarrassing position. Perhaps the monthly meetings of chairmen of the various African regional groups in New York could be used to encourage them to discharge that obligation. The drafting of a model report would also be useful, and the Committee could even include a separate paragraph in its own report on the whole question of overdue reports.

13. Mr. SONG Shuhua noted that, because they lacked qualified staff or were unfamiliar with the Committee's guidelines, some States parties submitted reports that were obviously not up to standard. To rectify that situation, the Committee should remind States parties of those guidelines and, if necessary, the persons responsible for drafting the periodic reports could ask the Committee to help them.

14. Mr. HOUSHMAND (Representative of the Secretary-General), replying to questions raised by previous speakers said, that if the Committee agreed, the

secretariat could transmit to States parties Mr. Banton's proposal that States should set up a permanent bureau to ensure that the periodic reports were submitted in time.

15. Regarding those States parties which had difficulty in drafting their reports, he recalled that the advisory services of the Centre for Human Rights were entirely at their disposal. Furthermore, training courses were held regularly for officials responsible for drafting those reports.

16. He agreed that a model report, drafted by the Committee, would be a useful addition to the guidelines on the drafting of reports that had already been sent to States parties.

17. In conclusion, he recalled that the Committee had unfortunately not been the only body to face the problem of overdue reports and that many bodies or services, including the General Assembly, the Commission on Human Rights and the Centre for Human Rights, as well as the Chairmen of the human rights bodies, were endeavouring to solve it.

18. Mr. SHERIFIS said that a model report would be very helpful to States parties and stressed the importance of the training courses to which Mr. Houshmand had referred. He would also like the summary records of the meetings of States parties to be communicated to the members of the Committee.

19. Mrs. SADIQ ALI said that she agreed with the idea of drafting a model report and proposed that the model, as well as the guidelines on how to draft the reports, should be handed to the representatives of the States parties in person when they came to present their reports.

20. Mr. RHENAN SEGURA said that a survey carried out in Latin America by the Inter-American Institute of Human Rights showed that only 8 out of 39 countries had a human rights department. It was therefore not surprising that, under the circumstances, some countries had difficulty in drafting their reports. In order to help them, the Committee could perhaps draft detailed guidelines for each article of the Convention.

21. The CHAIRMAN asked the secretariat to take account of all the proposals that had just been made. He invited the Committee to take up the question of the reports to be considered at its thirty-ninth session.

22. Mr. AHMADU asked why the periodic reports of Namibia were included in the list of those to be considered by the Committee at its thirty-ninth session.

23. Mr. HOUSHMAND (Representative of the Secretary-General) replied that those reports had been submitted by the United Nations Council for Namibia before the country had gained independence and could be considered only after Namibia had acceded to the Convention.

24. The CHAIRMAN declared that the Committee had completed consideration of agenda item 6.

The meeting was suspended at 11.35 a.m. and resumed at 11.55 a.m.

Mr. Shahi took the Chair.

Suggestions and general recommendations under article 9 of the Convention (concluded)

25. The CHAIRMAN read out the following draft recommendation prepared by the members of the Committee on Mr. Wolfrum's proposal concerning the interpretation and application of article 1, paragraphs 1 and 4, of the Convention:

"The Committee on the Elimination of Racial Discrimination,

Having considered reports from States parties concerning information about the ways in which individuals are identified as being members of a particular racial or ethnic group or groups,

Is of the opinion that such identification shall, if no justification exists to the contrary, be based upon self-identification by the individual concerned."

26. If there was no objection, he would take it that the Committee adopted that general draft recommendation.

It was so decided [decision 1 (XXXVIII)].

27. The CHAIRMAN then read out another general draft recommendation, which read:

"The Committee on the Elimination of Racial Discrimination,

Considering that independent expertise in the field of human rights is essential to secure full observance of human rights and fundamental freedoms,

Alarmed by the increasing tendency of representatives of States, organizations and groups to put pressure on experts, especially those serving as country rapporteurs,

Strongly recommends that they respect unreservedly the status of its members as independent experts of acknowledged impartiality serving in their personal capacity."

28. Mr. LECHUGA HEVIA said that the expression "increasing tendency" was too extreme because it gave the impression that there was an actual conspiracy. He had gathered that there were only one or two cases.

29. Mr. AHMADU said that it was not necessary to refer to the expertise of the experts because that was not the point at issue and that it was enough to stress their independence.

30. Mr. FERRERO COSTA associated himself with Mr. Lechuga Hevia's comment. It would be enough to say "concerned" (rather than "alarmed") and to refer only to a "tendency". In any case, a tendency was, by definition,

"increasing". He also proposed that the text should refer to article 8, paragraph 1, of the Convention, which constituted the legal basis for the recommendation.

31. Mr. RESHETOV supported the proposal to delete the word "increasing". In a sense, the tendency could actually be said to have declined somewhat recently. Perhaps the word "continuing" could be used. He also proposed that the phrase "in the field of human rights" should be deleted from the first preambular paragraph, because, given the wording of the rest of the sentence, it was redundant.

32. He considered it repetitive to speak of "independence" and "impartiality", but would not press the point.

33. Mr. de GOUTTES said that he agreed with the original draft of the recommendation but, in a spirit of compromise, would be prepared to accept the following wording:

> "Concerned over new signs that pressure is being exerted by States parties and outside groups on experts, ...".

34. The CHAIRMAN suggested that the meeting should be suspended to enable the members of the Committee to arrive at a wording that was satisfactory to all.

The meeting was suspended at 12.20 p.m. and resumed at 12.30 p.m.

35. The CHAIRMAN read out the new text of the draft recommendation concerning the application of article 8, paragraph 1, of the Convention:

> "The Committee on the Elimination of Racial Discrimination,
>
> Considering that respect for the independence of experts is essential to secure full observance of human rights and fundamental freedoms,
>
> Recalling article 8, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination,
>
> Alarmed by the tendency of representatives of States, organizations and groups to put pressure upon experts, especially those serving as country rapporteurs,
>
> Strongly recommends that they respect unreservedly the status of its members as independent experts of acknowledged impartiality serving in their personal capacity."

36. If he heard no objection, he would take it that the Committee adopted the proposed text.

It was so decided [decision 2 (XXXVIII)].

The meeting rose at 12.35 p.m.

886th meeting

Thursday, 23 August 1990
at 10.15 a.m.

Chairman: Mr. SHAHI

AGENDA ITEM 12

Report of the Committee to the General Assembly at its forty-fifth session under article 9, paragraph 2, of the Convention

1. The CHAIRMAN suggested that members of the Committee should study those parts of the draft report that were available. Since not enough members were present, the Committee would merely make observations until a quorum was attained and it could take decisions.

Document CERD/C.38/CRP.1

Paragraphs 1 and 2

2. The CHAIRMAN noted that no amendment was proposed.

Paragraph 3

3. Mr. BANTON, Rapporteur, proposed that the following passage be added at the end of paragraph 3: "As in recent years, the reduction in the time for the session created serious strains for the production of this report."

4. Mr. FERRERO COSTA asked whether the serious strains referred to in the additional passage proposed by the Rapporteur concerned the work of the Committee in general or solely the preparation of the report.

5. Mr. BANTON, Rapporteur, said that the strain related to the preparation of the report, which was made much more difficult by the fact that the documents drawn up by the secretariat reached the Rapporteur too late. In the current year, when the Committee had had only one session lasting only three weeks, the situation had deteriorated further.

6. The CHAIRMAN, speaking in his personal capacity, pointed out that in 1990 the volume of documentation was substantially the same as when the Committee had had two sessions of three weeks each.

7. Mr. HOUSHMAND (Representative of the Secretary-General) agreed that the main cause of the difficulties encountered in drawing up the report was the elimination of one of the annual sessions, since the secretariat no longer had an inter-sessional period in which to prepare the documentation and the Rapporteur, more often than not, had only the reviser's drafts of the summary records to refer to. He suggested that the Committee should include the sentence which Mr. Banton had read out in a separate paragraph, so as to stress more clearly the extent of the Committee's concern regarding the situation.

8. Mr. FERRERO COSTA said that stress must be laid on the fact that the situation was connected with the elimination of one of the sessions.

9. The CHAIRMAN said that he would leave it to the secretariat to include in the report the remarks made by members of the Committee on paragraph 3.

Paragraphs 4 to 6

10. The CHAIRMAN noted that no amendment was proposed to paragraphs 4 to 6.

Paragraphs 7 and 8

11. MR. BANTON, Rapporteur, proposed that the names of Mr. Foighel and Mr. Lamptey should be added and that, for each of the experts mentioned, the dates on which they had been present should be given. In paragraph 8, it would be necessary to specify that Mr. Sherifis and Mr. Ahmadu had made their solemn declaration later, and therefore to amend the wording of the paragraph.

12. The CHAIRMAN said that he would leave it to the secretariat to amend the paragraphs along the lines indicated.

Paragraphs 9 to 12

13. The CHAIRMAN noted that no amendment was proposed to paragraphs 9 to 12.

Document CERD/C/38/CRP.1/Add.2

14. Mr. BANTON, Rapporteur, said that he had no amendment to propose but he considered that the document would be easier to consult if States parties were listed in alphabetical order.

15. The CHAIRMAN noted that suggestion, which would be taken into account at the next session.

Paragraph 1

16. The CHAIRMAN, speaking in his personal capacity, said that he was surprised to note that, in paragraph 1, it was indicated that 126 initial reports had been due from States parties, whereas, according to paragraph 7, only five initial reports had been expected by the Committee at the closure of the thirty-eighth session. What was the explanation for that discrepancy?

17. Mr. HOUSHMAND (Representative of the Secretary-General) replied that paragraph 1 was concerned with the reports due - 126 in number - and paragraph 7 with reports which had not arrived - of which there were 5. Furthermore, it was clearly stated in paragraph 2 that 121 initial reports had been received by the Committee, making up the difference between 126 and 5.

18. Mr. FERRERO COSTA said that, to his knowledge, there were 129 States parties to the Convention. It was surprising therefore that paragraph 1 mentioned only 126 initial reports due from States parties.

19. Mr. HOUSHMAND (Representative of the Secretary-General) explained that the reports concerned were the 126 initial reports, out of a total of 129, which had been due up to 24 August 1990.

20. Mr. BANTON, Rapporteur, said that the figure of 127 third periodic reports needed to be checked.

21. Mr. HOUSHMAND (Representative of the Secretary-General) assured the Committee that all figures would be checked by the secretariat and would be corrected if necessary, taking into account the reports which arrived in the meantime.

22. The CHAIRMAN, speaking in his personal capacity, proposed that in the fourth line of the English text, the words "have been due" should be replaced by the words "were due".

Paragraphs 2 to 5

23. The CHAIRMAN noted that no amendment was proposed to paragraphs 2 to 5.

Paragraph 6 and table 1

24. The CHAIRMAN, referring to the last line in paragraph 6, pointed out that, according to table 1 in the document, the delay in receiving reports had always been far in excess of "a few days".

25. Mr. WOLFRUM noted that Canada's report had arrived several weeks late. He therefore proposed that the last sentence in paragraph 6 be amended to read: "They were all submitted after a delay, ranging from several weeks to over two years."

26. Mr. HOUSHMAND (Representative of the Secretary-General) said that all the dates concerned would be checked by the secretariat.

Paragraph 7 and table 2

27. The CHAIRMAN noted that no amendment was proposed to paragraph 7 and table 2.

Document CERD/C/38/CRP.1/Add.4

Paragraphs 1 to 13 (Jordan)

Paragraphs 1 to 4

28. The CHAIRMAN noted that no amendment was proposed to paragraphs 1 to 4.

Paragraphs 5 and 6

29. Mr. BANTON, Rapporteur, proposed an amendment to the first sentence in paragraph 5. The full-stop after the words "in the labour market" should be replaced by a semicolon, and the following words be added: "such a stipulation might have a discriminatory effect".

30. In the same paragraph, he proposed that the first two words of the third sentence "One member" should be replaced by the following: "A question was asked about the extent to which members of minorities participated in the political life of Jordan, especially the extent to which they were represented in Parliament. In that connection, it was ... ". Also in the same paragraph, he proposed that in the last sentence the word "He" should be replaced by the words "One member".

31. In paragraph 6, he proposed that the words "the desert population" should be replaced by the word "bedouin".

32. The CHAIRMAN took note of the amendments requested by Mr. Banton.

33. Mr. de GOUTiES said that it was regrettable that the French version of the document under consideration was not yet available.

Paragraphs 7 to 13

34. The CHAIRMAN noted that no amendment was proposed to paragraphs 7 to 13.

Paragraphs 14 to 32 (Denmark)

Paragraphs 14 to 21

35. The CHAIRMAN noted that no amendment was proposed to paragraphs 14 to 21.

Paragraph 22

36. Mr. BANTON, Rapporteur, proposed that in the penultimate sentence of the paragraph, "article 1 (2))" should be replaced by "article 1 (4))", and that a new paragraph 22 bis should begin with the last sentence.

37. The CHAIRMAN noted the amendment.

New paragraph 22 bis

38. Mr. BANTON, Rapporteur, proposed the insertion of a new paragraph beginning with the last sentence of former paragraph 22, "Two members expressed surprise ...". The paragraph would continue as follows: "It was suggested that the exercise of administrative discretion, which included the obligation to apply a fair procedure, did not meet in full the obligation under article 2 of the Convention".

39. In view of the insertion of the new paragraph, the secretariat would also have to renumber the remaining paragraphs.

40. Mr. FERRERO COSTA proposed that in future, the expression "members" should be generally used rather than, for example, "another member", "two members", and so on. He also asked why the Committee's draft report did not reflect the way in which the Committee actually functioned, namely with the presentation of comments on the reports of individual countries by country rapporteurs. Account could perhaps be taken of his remark when the Committee's next report was drawn up.

41. Mr. BANTON, Rapporteur, said that, in the passage concerned, it was clearer and more accurate to state "another member". With regard to the question of country rapporteurs, he pointed out that the Committee's reports were based on the summary records of its meetings, which sometimes grouped together various statements according to the article of the Convention to which they related. In his opinion, that method made it easier to read the documents.

42. The CHAIRMAN pointed out that the report under consideration had been modelled on previous reports, which related to sessions prior to the introduction of the system of country rapporteurs responsible for making a preliminary examination of the reports submitted by States parties.

43. Mr. FERRERO COSTA proposed that the Committee should devote a separate paragraph in its report to the country rapporteurs.

44. The CHAIRMAN, after pointing out that the Committee's most recent report to the General Assembly had included a paragraph on the system of country rapporteurs (A/44/18, para. 43), said that Mr. Ferrero Costa's proposal would be taken into consideration.

45. Mr. YUTZIS stressed the usefulness of the system, which had already proved its worth and should be specifically mentioned in the report. It would also be advisable if, at a subsequent session, the Committee could, once and for all, determine its methods of work, including the way in which its report to the General Assembly was to be presented.

Paragraphs 23 to 32

46. The Chairman took note of the proposed modifications.

47. The CHAIRMAN noted that no amendment was proposed to paragraphs 23 to 32.

Paragraphs 33 to 50 (Bangladesh)

48. The CHAIRMAN noted that no amendment was proposed to paragraphs 33 to 50.

Paragraphs 51 to 63 (Finland)

Paragraphs 51 to 54

49. The CHAIRMAN noted that no amendment was proposed to paragraphs 51 to 54.

Paragraph 55

50. Mr. BANTON, Rapporteur, proposed that the second and third sentences in paragraph 55 should be replaced by the following text: "Members were concerned that language should be the sole criterion for determining whether or not a person belonged to the Sami population. They wanted to know why the Samis and Romanies were treated differently in that respect. The view was expressed that such determination should be based on self-identification by the individuals concerned."

51. The CHAIRMAN took note of Mr. Banton's amendment.

Paragraphs 56 to 63

52. The CHAIRMAN noted that no amendment was proposed to paragraphs 56 to 63.

Document CERD/C/38/CRP.1/Add.6

Paragraphs 1 to 15 (Republic of Korea)

Paragraphs 1 to 4

53. The CHAIRMAN noted that no amendment was proposed to paragraphs 1 to 4.

Paragraph 5

54. Mr. BANTON, Rapporteur, proposed that the following sentence should be inserted after the third sentence: "The self-immolation of a student in protest against the presence of United States forces gave ground for fearing that there might be an element of racial hostility in this political issue."

55. The CHAIRMAN took note of that amendment.

Paragraphs 6 to 10

56. The CHAIRMAN noted that no amendment was proposed to paragraphs 6 to 10.

Paragraph 11

57. Mr. BANTON, Rapporteur, proposed that the following sentence should be added at the end of paragraph 11: "The representative of the State party questioned the relevance of any question relating to the presence of United States forces."

58. The CHAIRMAN took note of that amendment.

Paragraphs 12 to 15

59. The CHAIRMAN noted that no amendment was proposed to paragraphs 12 to 15.

Paragraphs 16 to 29 (Ethiopia)

60. The CHAIRMAN noted that no amendment was proposed to paragraphs 16 to 29.

Documents CERD/C/38/CRP.2 and Add.1, 3 and 4

61. The CHAIRMAN noted that no amendment was proposed to documents CERD/C/38/CRP.2 and Add.1, 3 and 4.

62. Noting that a quorum had now been attained, he suggested that the Committee should proceed to adopt the documents which had just been considered.

Document CERD/C/38/CRP.1 (concluded)

63. Mr. AHMADU, said that in paragraph 7 it should not be stated that some members had "attended only part of the session", since the members concerned also had duties to perform outside the Committee.

64. Mr. BANTON, Rapporteur, proposed that, in view of Mr. Ahmadu's comment, the paragraph should be worded as follows: "All members of the Committee attended the thirty-eighth session: Mr. Aboul-Nasr, Mr. Ahmadu, Mr. Foighel, Mr. Lamptey and Mr. Sherifis attended from ... to ..., from ... to ..., from ... to ..., from ... to ..., and from ... to ... respectively".

65. Mr. AHMADU approved of Mr. Banton's amendment to paragraph 7.

66. Mr. YUTZIS, said that some day the Committee really would have to reply to the question raised by Mr. Ahmadu and to lay down coherent and standard criteria governing the way it functioned.

Document CERD/C/38/CRP.1 was adopted, with the amendments noted earlier and the amendment made to paragraph 7.

Document CERD/C/38/CRP.1/Add.2, 4 and 6 were adopted, with the amendments noted earlier.

Documents CERD/C/38/CRP.2, and Add.1, 3 and 4 were adopted.

The meeting rose at 12.10 p.m.

887th meeting

Thursday, 23 August 1990
at 3.05 p.m.

Chairman: Mr. SHAHI

AGENDA ITEM 12

Report of the Committee to the General Assembly at its forty-fifth session under article 9, paragraph 2, of the Convention (continued)

Document CERD/C/38/CRP.1/Add.5

Paragraphs 1-12 (Ecuador)

Paragraphs 1 and 2

Paragraphs 1 and 2 were adopted.

Paragraphs 3-5

1. Mr. YUTZIS said that the Committee's consideration of the ninth and tenth periodic reports of Ecuador (CERD/C/172/Add.4) had reflected many of the difficulties it faced as a result of its current methods of work. He particularly wished to stress the fact that he and other members had refused to accept the Ecuadorian Government's assertion that there was no racial discrimination in the country. He therefore suggested that the last two sentences in paragraph 3 should be replaced by the sentence: "In this respect, members wished to know whether the Convention was being directly implemented in Ecuador; members expressed surprise that, apparently, these provisions had never been invoked before the courts, arguing that, even if these provisions had not been invoked, this did not suffice as evidence that there was no racial discrimination in Ecuador".

2. Mr. BANTON (Rapporteur) pointed out that the proposed amendment was a repetition of the statement in the first sentence of paragraph 5. He proposed that the Committee should adopt the first part of the amendment down to the words "... never been invoked before the courts". The first sentence of paragraph 5 should be retained and the following sentence inserted after it: "Even if the Covenant had not been invoked before the courts, this did not prove the absence of such discrimination."

Mr. Banton's proposal was adopted.

Paragraphs 3-5, as amended, were adopted.

Paragraphs 6-12

Paragraphs 6-12 were adopted.

Paragraphs 13-26 (China)

Paragraph 13

Paragraph 13 was adopted.

Paragraph 14

3. Mr. SONG Shuhua suggested that, in the third sentence, the word "regions" should be changed to "areas".

It was so agreed.

Paragraph 14, as amended, was adopted.

Paragraph 15

4. Mr. SONG Shuhua, referring to the second sentence of the paragraph, said that, in fact, only one member had referred to the situation of African students in China, and he therefore considered that the sentence should be amended to read: "One member observed ...".

5. Mr. BANTON, Rapporteur, pointed out that, although only one member had referred specifically to the problems faced by African students, a number of members had mentioned the questions which remained to be answered regarding the practical problems encountered by various minorities in China.

6. Mr. FERRERO COSTA, supported by Mr. WOLFRUM, said that, if one member referred to a specific problem, subsequent speakers tended to refrain from raising the same point. If there was to be a dispute about whether one member or several members had endorsed a particular view, every member would have to make the same point separately, which would be very tedious.

7. Mr. AHMADU suggested that the words: "It was observed ..." should be substituted for "They observed ..." at the beginning of the second sentence.

8. Mr. SONG Shuhua, Mr. VIDAS and Mr. GARVALOV supported that suggestion.

Mr. Ahmadu's suggestion was adopted.

Paragraph 15, as amended, was adopted.

Paragraph 16

9. Mr. FERRERO COSTA said that the first sentence should be amended to read: "Members of the Committee referred to the provisions of article 2 of the Convention and requested comparative statistics showing the size and situation of the various ethnic minorities as well as the size of the Han Chinese majority."

10. Mr. WOLFRUM said that Mr. Ferrero Costa's concern might be expressed more specifically by referring to "comparative statistics giving information about the size as well as the social and economic situation of the various ethnic groups".

11. Mr. FERRERO COSTA proposed that the words "in accordance with the provisions of article 2, paragraph 2, of the Convention" should be added to the end of the second sentence.

12. The fourth sentence should be amended to read: "It was also asked what the criteria and procedures were for the formation of autonomous areas, and to what extent there was respect for the national minority populations' right to demarcation of the autonomous areas, and to what extent minority groups effectively participated in running them and in the adoption of their laws through the popular assemblies of the autonomous areas."

Paragraph 16, as amended by Mr. Ferrero Costa and Mr. Wolfrum, was adopted.

New paragraph 16 bis

13. Mr. FERRERO COSTA proposed the insertion of a new paragraph 16 bis which would read: "In connection with article 3 of the Convention, members of the Committee expressed their recognition to the People's Republic of China for the constant policy it had pursued in the fight against apartheid in South Africa and for the support it had given to other African peoples in their struggle against racial discrimination."

The proposed new paragraph bis was adopted.

Paragraph 17

14. Mr. BANTON, Rapporteur, proposed that the following new sentence should be added to the end of the paragraph: "It was pointed out that since some of the minorities were quite small, the family planning policy might have a different and probably detrimental effect upon them."

It was so decided.

Paragraph 17, as amended, was adopted.

Paragraph 18

Paragraph 18 was adopted.

Paragraph 19

15. Mr. SONG Shuhua said that he could not easily accept the word "members" in the first sentence of the paragraph, since not all members were in agreement on the issue referred to. He suggested that the wording "certain members observed" would be preferable.

16. Mr. AHMADU suggested that a compromise formulation for the first sentence might read: "Great concern was expressed about the situation of the people of the Autonomous Region of Tibet." The second sentence could then begin with the wording: "It was observed that information received from various non-governmental organizations indicated that ...".

17. Mr. SONG Shuhua said that he could accept that wording.

18. Mrs. SADIQ ALI suggested that the beginning of the second sentence should be amended to read: "It was observed that information received from various sources, including non-governmental organizations, indicated that ...".

The text proposed by Mr. Ahmadu, as amended by Mrs. Sadiq Ali, was adopted.

19. Mr. FERRERO COSTA said that, in order to save time, he had accepted the proposed amendments, but that in fact many members of the Committee had raised the issue of the situation of the people of the Autonomous Region of Tibet. It might be useful in that connection to include a reference to the summary records of the relevant meetings. In any case, the vexed question of whether to opt in the Committee's reports for such wording as "members" or "the Committee", or for neutral expressions such as "it was observed", had arisen many times, and he suggested that it should be the subject of special discussion at the next session.

20. Mr. RESHETOV drew attention to the problem of the translation of the word "members" into Russian. If translated literally, the impression was given that the whole membership of the Committee was involved.

21. Mr. HOUSHMAND (Representative of the Secretary-General) said that it had been the practice to bring problems relating to the Russian text to the notice of the Russian Translation Section, and that procedure would be followed in the case mentioned by Mr. Reshetov.

22. Mr. FERRERO COSTA suggested that the fifth sentence of the paragraph should be amended to read: "Detailed information was also requested concerning the exploitation of natural resources in Tibet by the central Government and the extent to which the exploitation of those resources would be of direct benefit to the Tibetan national minority; on the export of Tibetan art; Tibetan literacy and unemployment; the restriction of freedom of movement and residence for Tibetans; the limitations applied to their freedom of thought, conscience and religion, as well as to freedom of opinion and expression; and the situation of the Tibetan national minority in relation to the Han majority living in Tibet, relating to the right to work, housing and health."

It was so agreed.

23. Mr. YUTZIS suggested that the last sentence of the paragraph should be reworded to read: "Since religion is almost always an important component of the process of self-identification of minorities, it was not clear whether the information given by the State party about the reopening of temples also permitted the restoration of the economic base of the monasteries and temples".

24. Mr. BANTON, Rapporteur, proposed that the words "it was not clear whether the information given by the State party about" in Mr. Yutzis' proposal should be replaced by "members were concerned to know whether".

25. Mr. WOLFRUM said that, as the report of China had referred to the reopening of monasteries as well as temples, the words "and monasteries" should be inserted after "reopening of temples".

26. The CHAIRMAN said he took it that the Committee wished to adopt the amendment proposed by Mr. Yutzis, as amended by Mr. Banton and Mr. Wolfrum, the final version of which would read: "Since religion is almost always an important component of the process of self-identification of minorities, members were concerned to know whether the reopening of temples and monasteries also permitted the restoration of their economic base".

It was so agreed.

Paragraph 19 as a whole, as amended, was adopted.

Paragraph 20

27. Mr. SONG Shuhua said that he could not accept the last sentence of that paragraph, referring to an eye-witness account about forced sterilizations and abortions in a particular village. Such an incident would be quite unthinkable, not only in view of Chinese family planning policy, with which he was familiar, but also because the whole village would have been in revolt. The Committee should adopt a responsible approach to a report that would be submitted to the General Assembly.

28. Mr. WOLFRUM said that he sympathized with the reservations of Mr. Song Shuhua. The matter raised the general issue of the Committee's policy and procedures in drafting its report. If the report was intended as a faithful reflection of the Committee's discussions, then there was a strong case for including such a reference, rephrasing it if need be, on the ground that the Committee should not systematically omit any reference to unpalatable matters when they had indeed been discussed. If, however, the intention was to give a more general overview of the discussion, without going into detail, a different approach might be adopted.

29. Mr. SONG Shuhua said that he had checked the relevant summary record, and felt strongly that nothing that had been omitted from the summary record should be included in the report.

30. Mr. FERRERO COSTA said that the Committee must be consistent about the kind of detail it wished to include in its report. The summary record was the place for such detail, and, since many parts of the report did not include specific references of that kind, he suggested that the sentence should be deleted.

31. Mr. BANTON, Rapporteur, speaking in a personal capacity, said that since corrrections could always be made to the provisional summary records, he would wish a reference to the statement in question to be included in the relevant final summary record if it had been omitted.

32. Mr. WOLFRUM suggested recasting the whole paragraph to read: "Members expressed anxiety about the manner in which the Government's family planning policy was being implemented in Tibet and as to whether it was properly supervised. One incident was mentioned which seemed to give rise to grave concern".

33. The CHAIRMAN, speaking in a personal capacity and supported by Mr. VIDAS and Mr. AHMADU, said that he was in favour of deleting the final sentence referring to the incident in question. He had personally been impressed by the argument that the report should not reflect every detail, which was, moreover, general United Nations practice. The report as a whole was highly critical of China and he felt that such sensitive issues called for delicate handling. The report would in any case be read in conjunction with the summary records, which contained the necessary details.

34. Mr. de GOUTTES said that the second sentence, referring to monetary incentives for family planning teams, seemed too impersonal, and suggested that it should be preceded by "According to some members,".

35. After an exchange of views in which Mr. AHMADU, Mr. WOLFRUM and Mr. FERRERO COSTA took part, the CHAIRMAN said he took it that the Committee wished to delete both the second and third sentences, leaving the first sentence unchanged.

It was so agreed.

Paragraph 20, as amended, was adopted.

Paragraph 21

Paragraph 21 was adopted.

Paragraph 22

36. Mr. BANTON, Rapporteur, proposed the addition of the following sentence at the end of the paragraph: "The relevance to Tibet of the principle 'one country, two systems' might need reconsideration".

37. Mr. SONG Shuhua said that the principle was a political one, applying to Taiwan, Hong Kong and Macao. The Committee should confine itself to issues of racial discrimination and avoid a discussion of political matters.

38. After an exchange of views, in which Mr. BANTON, Mrs. SADIQ ALI and Mr. SONG Shuhua took part, the CHAIRMAN, speaking in his personal capacity, said that he was unaware that the principle had been applied to Tibet. He thought that the Committee might be exceeding its mandate and exposing itself to criticism by recommending a specific solution to so sensitive a problem as that of nationalities.

39. Mr. BANTON, Rapporteur, withdrew his proposal.

40. Mr. SONG Shuhua proposed that the opening words of the paragraph should be amended to read "members".

It was so agreed.

Paragraph 22, as amended, was adopted.

Paragraph 23

Paragraph 23 was adopted.

Paragraph 24

41. The CHAIRMAN pointed out that the reference to article 4 of the Convention should be amended to article 5.

Paragraph 24, as amended, was adopted.

Paragraphs 25 and 26

Paragraphs 25 and 26 were adopted.

Paragraphs 13-26, as amended, were adopted.

Paragraphs 27-37 (Czechoslovakia)

Paragraphs 27-37 were adopted.

Document CERD/C/38/CRP.1/Add.5 as a whole, as amended, was adopted.

Document CERD/C/38/CRP.1/Add.9

Paragraphs 1-9 (Holy See)

Paragraphs 1-3

Paragraphs 1-3 were adopted.

Paragraph 4

42. Mr. de GOUTTES proposed that the phrase "ultra-conservative movements with strong links to the Catholic Church" in the second sentence should be amended to read "ultra-conservative movements claiming links with the Catholic Church". In the first sentence of that paragraph, he felt that the word "hostility" was too strong, and should be replaced by "reticence".

Paragraph 4, as amended, was adopted.

Paragraph 5

43. Mr. AHMADU proposed that the first sentence of the paragraph should be replaced by the following text: "Given the enormous influence of the Catholic Church, it was observed that the Holy See could comment more quickly and forcefully on topical issues."

44. With regard to the third sentence, he said that no religious element had been involved in the Nigerian civil war. He therefore proposed that the sentence should be amended to read "During the Nigerian civil war in the late 1960s, the Holy See had also delayed taking a firm position on the matter."

45. Mr. FERRERO COSTA said that the statement concerning black people in the United States of America and in parts of Africa in the last sentence of the paragraph was a detail which need not be included in the report. In his opinion, the main point appeared at the beginning of the paragraph. He therefore suggested that the last sentence should be deleted.

46. Mr. AHMADU said he believed that the public relations activities of the Catholic Church regarding racial discrimination could be improved. Some black members of the Catholic Church in the United States believed that they were being discriminated against by the Church and were leaving it. He had no objection to the deletion of the sentence, but would like the point to be covered in the summary record.

47. After an exchange of views in which Mr. YUTZIS, Mr. FERRERO COSTA and Mr. VIDAS took part, the CHAIRMAN said that if there was no objection, he would take it that the Committee wished to delete the last sentence of the paragraph and to adopt the following text of the paragraph, as amended:

> "Given the enormous influence of the Catholic Church, it was mentioned that the Holy See could comment more quickly and forcefully on topical issues. The Special Committee against Apartheid, for example, had waited a long time for a clear-cut and assertive condemnation of apartheid from the Holy See. During the Nigerian civil war in the late 1960s, the Holy See had also delayed taking a firm position on the matter."
>
> It was so decided.
>
> Paragraph 5, as amended, was adopted.

Paragraphs 6-9

Paragraphs 6-9 were adopted.

Paragraphs 10-23 (Hungary)

48. Mr. RESHETOV recalled that he had put two questions to the representative of Hungary. He had firstly asked that representative whether his country recognized the principle of territorial integrity of a State as it applied to other States. Secondly, he had asked whether the Hungarian Constitution contained the principle of the right to self-determination.

49. With respect to the first question, the representative of Hungary had replied by referring to the Charter of the United Nations and had said that his country recognized the principle. He had not replied to the second question. He would not press the issue but if the Rapporteur thought that it should be reflected in the report, he would be happy to let him deal with the matter.

50. Mr. BANTON, Rapporteur, referring to the point raised by Mr. Reshetov, said that he would look at the draft once again.

51. Noting that the Convention did not mention minorities but dealt with ethnic differences, he said that he wished to introduce some changes suggested by members relating to paragraphs where there was a reference to minorities. Difficulties could arise sometimes because different States had differing views as to what constituted a minority.

52. With regard to the third sentence of paragraph 14, he said that the word "minorities" should be replaced by the words "ethnic groups". In the first sentence of paragraph 15, the words "and ethnic groups" should be inserted after the word "minorities". In the first sentence of paragraph 17, the word "ethnic" should be deleted and the words "and ethnic groups" inserted after the word 'minorities". The same change should be made in the first sentence of paragraph 18. In the second sentence, the words "and ethnic groups" should be inserted after the word "minorities". Lastly, paragraph 19 should form two paragraphs, a new paragraph 19 bis, beginning with the sixth sentence "In connection with ...".

53. The CHAIRMAN said that if he heard no objection, he would take it that the Committee agreed to adopt the report on Hungary in paragraphs 10-23, as amended, with the exception of paragraph 15 which would be redrafted by the Rapporteur to take account of Mr. Reshetov's question.

It was so decided.

Paragraphs 10-23, as amended, were adopted, with the exception of paragraph 15.

Paragraphs 24-29 (Dominican Republic)

Paragraphs 24-29 were adopted.

Document CERD/C/38/CRP.1/Add.14

Document CERD/C/38/CRP.1/Add.14 was adopted.

The meeting rose at 6.05 p.m.

888th meeting

Friday, 24 August 1990
at 10.20 a.m.

Chairman: Mr. SHAHI

In the absence of the Chairman, Mr. Ferrero Costa, Vice-Chairman, took the Chair.

AGENDA ITEM 12

Report of the Committee to the General Assembly at its forty-fifth session under article 9, paragraph 2, of the Convention (concluded)

Document CERD/C/38/CRP.1/Add.7

Paragraphs 1-18 (Netherlands)

Paragraphs 1-2

Paragraphs 1-2 were adopted.

Paragraph 3

1. Mr. BANTON (Rapporteur) said there were two corrections to be made in paragraph 3 relating to consideration of the reports of the Netherlands. In the seventh line of paragraph 3, the words "to the Committee's request" should be replaced by "following the opinion expressed by the Committee". In the tenth line of paragraph 3, the words "race relations bureau" should be replaced by the words "anti-discrimination agency".

Paragraph 3, as amended, was adopted.

Paragraphs 4-18

Paragraphs 4-18 were adopted.

Document CERD/C/38/CRP.1/Add.7, as amended, was adopted.

Document CERD/C/38/CRP.1/Add.8

Paragraphs 1 to 8 (Qatar)

Paragraphs 1-4

Paragraphs 1-4 were adopted.

Paragraph 5

2. Mr. BANTON (Rapporteur) proposed that a number of changes should be made in paragraph 5. After the first sentence of the paragraph, the following sentence should be added: "They wished to have more information about the demographic composition of the population". In line 10 of the same paragraph, after the word "remuneration", the phrase "conditions of work and working

hours" should be added. In line 12, a full stop should be inserted after "naturalized citizens of Qatar". The remainder of the sentence should be deleted and replaced by the following: "Further, it was asked why non-citizens were limited in access to public places and services and were subject to restrictions on the free choice of employment".

Paragraph 5, as amended, was adopted.

Paragraphs 6-8

Paragraphs 6 to 8 were adopted.

Mr. Shahi took the Chair.

Paragraphs 9 to 22 (Yugoslavia)

Paragraph 9

Paragraph 9 was adopted.

Paragraph 10

3. Mr. BANTON (Rapporteur), referring to paragraph 10, proposed that in line 16 the phrase beginning "... because of the raising by the Albanian national minority" and ending "self-determination and secession" should be replaced by the following: "... because of the aspiration of a section of the Albanian national minority to proclaim the Province a Republic and the minority a people entitled to self-determination".

Paragraph 10, as amended, was adopted.

Paragraph 11

4. Mr. BANTON (Rapporteur) said that a number of changes should be made in paragraph 11. In line 8, the phrase beginning "... what were the constitutional amendments" should be deleted and replaced by: "... whether it was true that the overwhelming majority in the Kosovo Assembly had declared that Kosovo should become an independent and equal unit within a Yugoslav federation". After the full stop would follow another sentence, beginning: "Further questions were asked about", the rest of the sentence, ending "October 1988", remaining unchanged. The next sentence would begin with the words "Members asked". In line 12, after the words "different regions", the phrase "so that they could judge how much progress had been made" should be added. The following sentence would begin with the words "They asked whether", the rest of the sentence ("it was true that the Serbian Parliament had recently attempted to limit the autonomy of Kosovo") remaining unchanged. In line 14, the phrase "Members of the Committee had also noted that" should be replaced by "They also asked whether". In line 15, the words "that was made" after "attempt" should be deleted. In line 16, the word "was" should be replaced by "would be".

The proposed changes were approved.

5. Mr. BANTON (Rapporteur) proposed that the sentence "There was an inquiry about the fate of one and a half million Bulgarians resident in Macedonia" should be added at the end of paragraph 11.

6. Mr. VIDAS said that the number was unconfirmed and should accordingly not be mentioned.

7. The CHAIRMAN suggested that that question could be dealt with at a later stage.

It was so decided.

Paragraph 11, as amended, was adopted.

Paragraph 12

Paragraph 12 was adopted.

Paragraph 13

8. Mr. BANTON (Rapporteur) proposed a number of changes in paragraph 13. In line 3, after the word "crimes" the following phrase should be added: "noted that it was subject to wide variation in practice". A full stop should be placed after the word "practice". The remainder of the existing sentence would then follow, preceded by the word "They". In line 5, the word "and" should be added before "on the lack of". In line 7, a full stop should be placed after the words "Amnesty International", and the following sentence added: "Did they get a fair trial with an attorney provided at public expense?". On the same line, the words "and on the role of the Social Attorney of Self-Management" should be replaced by the words "What was the role of the socialist system of self-management" and a question mark should be placed at the end of the sentence.

Paragraph 13, as amended, was adopted.

Paragraph 14

9. Mr. BANTON (Rapporteur) proposed that in paragraph 14, line 7, after the sentence ending with the words "political parties" the following sentence should be inserted: "Clarification was sought on the operation of article 133 of the Federal Criminal Code". In the first line on page 6, after the word "association", the following phrase should be added: "and whether it was true that the only Albanian newspaper and broadcasting station had been closed".

10. Mr. VIDAS said that he would like the reply of the Yugoslav Government to the two questions raised by Mr. Banton to be included in the document.

11. The CHAIRMAN suggested that a decision on that point could be taken at a later stage.

It was so decided.

Paragraph 14, as amended, was adopted.

Paragraph 15

12. Mr. BANTON (Rapporteur) proposed that at the end of paragraph 15 the following sentence should be added: "In relation to article 7 it was asked what measures had been taken to develop awareness of human rights among the police, in view of the events in Montenegro".

Paragraph 15, as amended, was adopted.

Paragraph 16

13. Mr. VIDAS proposed that the phrase "the Presidents of" in the fifth line of paragraph 16 should be deleted, since it was the Republics and not their Presidents which would be making the choice between federation and confederation.

Paragraph 16, as amended, was adopted.

Paragraphs 17-19

Paragraphs 17-19 were adopted.

Paragraph 20

14. Mr. VIDAS requested that reference should be made in the report to the representative of Yugoslavia's replies to questions concerning article 133 of the Federal Criminal Code and concerning minorities.

15. Following a discussion in which Mr. VIDAS, Mr. BANTON (Rapporteur), Mr. WOLFRUM and the CHAIRMAN took part, it was proposed to add to paragraph 20: "He stated that article 133 of the Federal Criminal Code had been repealed on 5 August 1990".

Paragraph 20, as amended, was adopted.

Paragraph 21

Paragraph 21 was adopted.

Paragraph 22

16. Mr. BANTON (Rapporteur) proposed to amend paragraph 22 to read as follows: "Since he did not have time to respond to all the questions, the representative of Yugoslavia gave an assurance that his Government would reply in more detail in its next periodic report to the important points raised by members of the Committee, including the figures for minorities in Macedonia and the number of newspapers published in Albanian".

Paragraph 22, as amended, was adopted.

Document CERD/C/38/CRP.1/Add.8, as a whole, as amended, was adopted.

Document CERD/C/38/CRP.1/Add.9 (concluded)

Paragraph 15

17. The CHAIRMAN drew attention to the fact that at the 887th meeting (para. 53) the Committee had taken no decision on paragraph 15.

18. Mr. BANTON (Rapporteur) proposed that the following sentence should be added to paragraph 15: "It was asked whether Hungary considered the principle of territorial integrity to be applicable to all States, and whether the right of self-determination was recognized in the Hungarian Constitution".

Paragraph 15, thus amended, was adopted.

Document CERD/C/38/CRP.1/Add.9 as a whole, as amended, was adopted.

Document CERD/C/38/CRP.1/Add.12

Document CERD/C/38/CRP.1/Add.12 was adopted.

Document CERD/C/38/CRP.1/Add.13

Paragraphs 1-4

Paragraphs 1-4 were adopted.

Paragraph 5

19. Mr. FERRERO COSTA said that it would be desirable to add, at the end of paragraph 5, that the Committee had found the communication in question admissible.

20. Mr. HOUSHMAND (Representative of the Secretary-General) said that, out of respect for the confidential nature of documents relating to the admissiblility of communications, decisions taken by the Committee in that respect were not included in documents such as the Committee's report to the Assembly, which were made available to the public.

21. Mr. FERRERO COSTA said it was one thing not to reproduce the Committee's resolution concerning admissibility, but to state whether or not a finding of admissibility had been made was something quite different. In the latter case, the confidentiality of the communication was not breached.

22. The CHAIRMAN said that more time would be needed if the interesting question raised by Mr. Ferrero Costa were to be properly discussed. He suggested that, for the time being, the Committee should keep to its traditional practice and add nothing to paragraph 5.

It was so decided.

Paragraph 5 was adopted.

Paragraph 6

Paragraph 6 was adopted.

Document CERD/C/38/CRP.1/Add.13 was adopted.

Document CERD/C/38/CRP.1/Add.15

Paragraphs 1-9

23. The CHAIRMAN read out a letter he had received from Mr. Asbjørn Eide, Special Rapporteur of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities on the study of the results achieved and the obstacles encountered during the first Decade to Combat Racism and Racial Discrimination and the first half of the Second Decade, seeking the Committee's views on points that could be discussed during its joint meeting with the Sub-Commission. If the Committee had no objection, he would send Mr. Eide a reply reflecting what was stated in paragraph 4 of document CERD/C/38/CRP.1/Add.15.

It was so decided.

Paragraphs 1-9 were adopted.

Paragraph 10

24. Mr. BANTON (Rapporteur) pointed out that in paragraph 10, the word "and" should be added between the words "action" and "who" in line 4.

Paragraph 10, as amended, was adopted.

Paragraph 11

Paragraph 11 was adopted.

Document CERD/C/38/CRP.1/Add.15 as a whole, as amended, was adopted.

The meeting was suspended at 11.35 a.m. and resumed at 11.50 a.m.

Document CERD/C/38/CRP.1/Add.16

Document CERD/C/38/CRP.1/Add.16 was adopted.

Document CERD/C/38/CRP.1/Add.3

Paragraphs 1-7

Paragraphs 1-7 were adopted.

Paragraph 8

25. Mr. FERRERO COSTA said that while he appreciated the fact that paragraph 8 gave an account of the system whereby a country rapporteur was

made responsible for examining a given report and guiding the Committee's discussions, he regretted that in other reports of the Committee no distinction was made between the comments of the rapporteur specially appointed for a particular country and the comments of other members of the Committee. He proposed that paragraph 8 should also indicate the names of the special rapporteurs appointed for each country.

26. The CHAIRMAN proposed that it should be left to the secretariat to expand the paragraph in line with Mr. Ferrero Costa's suggestion.

It was so decided.

Paragraph 8 was adopted.

Document CERD/C/38/CRP.1/Add.3, as a whole, as amended, was adopted.

Document CERD/C/38/CRP.1/Add.10

Paragraphs 1-18 (New Zealand)

Paragraphs 1-5

Paragraphs 1-5 were adopted.

Paragraph 6

27. Mr. WOLFRUM proposed that in the last sentence of paragraph 6, the phrase "had been neglected" should be replaced by "should not be neglected".

It was so decided.

Paragraph 6, as amended, was adopted.

Paragraph 7

28. Mr. AHMADU proposed that in paragraph 7 the word "tribes" should be replaced by the word "Iwi".

29. The CHAIRMAN proposed that that change should be made throughout the text relating to New Zealand.

It was so decided.

30. Mr. WOLFRUM proposed that, in paragraph 7, the phrase "whether the Maori tribes" should be replaced by "whether the Waitangi Iwi".

It was so decided.

Paragraph 7, as amended, was adopted.

Paragraph 8

31. Mr. WOLFRUM proposed that the following sentence be added at the end of paragraph 8: "Specifically, information was sought concerning the Maatua Whangai programme". He also proposed that the penultimate sentence of paragraph 8 should be altered to read as follows: "... the meaning of a 'tightening up' of the legal and investigative procedures of the Race Relations Office. The Committee took note of the high level of unemployment in the Maori population, and asked what were the reasons for it, and what measures had been taken to alleviate that situation".

It was so decided.

Paragraph 8, as amended, was adopted.

Paragraph 9

32. Mr. WOLFRUM proposed that the first sentence of paragraph 9 should be altered to read as follows: "With reference to electoral practices, members inquired about the present representation of Maoris in Parliament and the guaranteed seats granted to them; they wondered why the New Zealand Government had not, ...".

It was so decided.

Paragraph 9, as amended, was adopted.

Paragraph 10

Paragraph 10 was adopted.

Paragraph 11

33. Mr. WOLFRUM proposed that the first sentence of paragraph 11 should be amended to read as follows: "With regard to article 5 of the Convention, members of the Committee noted with satisfaction that ...".

It was so decided.

Paragraph 11, as amended, was adopted.

Paragraph 12

34. Mr. WOLFRUM proposed that the penultimate sentence of paragraph 12 should be amended to read as follows: "It was also noted that the reports were very much concerned with relations between the Government and the Maori". He also proposed that, in the last sentence of the same paragraph, the word "biculturalism" should be replaced by the word "multiculturalism".

It was so decided.

Paragraph 12, as amended, was adopted.

Paragraphs 13-18

Paragraphs 13-18 were adopted.

Paragraphs 19-33 (Union of Soviet Socialist Republics)

Paragraphs 19-20

Paragraphs 19-20 were adopted.

Paragraph 21

35. Mr. de GOUTTES pointed out that in the French version of the first sentence of paragraph 21 the definite article "la" before the word perestroïka had been omitted.

Paragraph 21 was adopted.

Paragraphs 22-33

Paragraphs 22-33 were adopted.

Document CERD/C/38/CRP.1/Add.10 as a whole, as amended, was adopted.

The meeting was suspended at 12 noon and resumed at 12.15 p.m.

Document CERD/C/38/CRP.1/Add.11

Paragraphs 1-14 (Byelorussian Soviet Socialist Republic)

Paragraphs 1-11

Paragraphs 1-11 were adopted.

Paragraph 12

36. Mr. RESHETOV said that in line 12 of paragraph 12, the words "23,000 persons of non-Soviet nationality", should be replaced by "23,000 Jews". He proposed that in the last sentence, the phrase "because the Chernobyl disaster had displaced one fifth of the population" should be replaced by "because one fifth of the population had suffered by the Chernobyl disaster".

It was so decided.

Paragraph 12, as amended, was adopted.

Paragraphs 13-14

Paragraphs 13-14 were adopted.

Paragraphs 15-17 (Haiti)

Paragraphs 15-17 were adopted.

Paragraphs 18-30 (Italy)

Paragraphs 18-20

Paragraphs 18-20 were adopted.

Paragraph 21

37. Mr. BANTON (Rapporteur) suggested that, in the first sentence of paragraph 21, the words "psycho-sociological causes" should be replaced by "steps were being taken to deal with", and that the words "in public places and private institutions" should be added after the words "serious racial incidents".

Paragraph 21 was adopted.

Paragraphs 22-30

Paragraphs 22-30 were adopted.

Document CERD/C/38/CRP.1/Add.11 as a whole, as amended, was adopted.

Document CERD/C/38/CRP.1/Add.1

38. Mr. BANTON (Rapporteur) proposed that a full stop should be placed after the words "provisions of the Convention" in the fourth line of the first sentence of paragraph 4. In the second sentence, which would then begin "This had tended", the verb "distance" should be replaced by "distract". In the penultimate sentence the phrase "guidelines for the initial reports" should be replaced by "guidelines for the initial part of reports". In the last sentence of paragraph 5, the phrase "could be considered" should be used instead of "would be considered", and "other conclusions and recommendations" should be replaced by "further conclusions and recommendations".

Document CERD/C/38/CRP.1/Add.1, as amended, was adopted.

Documents CERD/C/38/CRP.1/Add.14 and CERD/C/38/CRP.2 and Add.1-4

The documents CERD/C/38/CRP.1/Add.14 and CERD/C/38/CRP.2 and Add.1-4 were adopted.

39. The CHAIRMAN proposed that the report as a whole should be adopted.

It was so decided.

The draft report as a whole (CERD/C/38/CRP.1 and Add.1-16 and CERD/C/38/CRP.2 and Add.1-4), as amended, was adopted.

Draft letter from the Chairman of the Committee to the Secretary-General of the United Nations

40. The CHAIRMAN read out the text of a letter of transmittal of the Committee's report which he proposed to send to the Secretary-General of the United Nations.

The draft letter was approved.

Joint meeting of the Committee on the Elimination of Racial Discrimination and the Sub-Commission on Prevention of Discrimination and Protection of Minorities

41. The CHAIRMAN drew the Committee's attention to a note sent to him by the Special Rapporteur of the Sub-Commission on the study of the results achieved and the obstacles encountered during the first Decade for Action to Combat Racism and Racial Discrimination and the first half of the Second Decade, proposing a number of subjects for discussion at the joint meeting. The Committee, at its 884th meeting, had defined two possible points for discussion: the conflict between the right to protection against racial discrimination and certain other fundamental rights and freedoms, and the question of racial discrimination in relation to the distinction between nationals and non-nationals (see CERD/C/38/CRP.1/Add.15, para. 4). It had also been decided that the Chairman of the Committee would consult the Chairman of the Sub-Commission regarding the programme for the joint meeting. He suggested that members might wish to make further comments on the matter.

42. Mr. FERRERO COSTA agreed that it would be appropriate to consider those two subjects. The Committee should approach preparations for the meeting very seriously, in order to ensure the adoption of a common position on matters that concerned it.

43. The CHAIRMAN suggested that the Committee might use its next session - if it were held in March 1991 - to discuss those questions in depth with a view to arriving at a consensus.

44. Mr. YUTZIS said that in his view all members should be invited to send to the Secretariat of the Committee and to the Chairman proposals for consideration at the March 1991 session. That would make it possible to develop any ideas put forward, and to agree on a more specific agenda for the joint meeting.

45. The CHAIRMAN proposed that he should simply indicate to the Sub-Commission the topics which were of concern to the Committee, on the understanding that the Committee would take up the matter again at its next session.

It was so decided.

Organization of the work of the Committee's thirty-ninth session

46. Mr. BANTON asked whether the Committee was to begin its consideration of periodic reports on the first day of its next session.

47. Mr. FERRERO COSTA said he understood that the Committee had decided to leave it to the Chairman and the Secretariat to decide that question.

48. The CHAIRMAN said that no decision had yet been taken on the matter.

49. Mr. WOLFRUM felt that the Committee should get down to the task of considering the reports on the first day. It would also be desirable to take up at the very beginning of the next session the question of making reference in the Committee's report to the specially appointed rapporteurs.

50. The CHAIRMAN said that the Committee had decided to include a reference to those rapporteurs in an annex to its report.

51. Mr. FERRERO COSTA said the Committee would nevertheless have to consider whether that practice should be continued; he therefore supported Mr. Wolfrum's suggestion.

52. Mr. YUTZIS said that it was essential for the Committee to devote part of its next session to consideration of its working methods, because the current methods were extremely time-consuming.

53. The CHAIRMAN said that both the question of the specially appointed rapporteurs and the question of working methods would be taken up at the first meeting of the next session, and a general discussion of those questions might be held later.

Closure of the session

54. The CHAIRMAN declared the thirty-eighth session of the Committee on the Elimination of Racial Discrimination closed.

The meeting rose at 12.55 p.m.